

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

**ORDER WR 2012-0037-EXEC**

---

In the Matter of Permits 17360 and 17361 (Applications 24985 and 25165)  
**Edwards Ranch, LLC**

**ORDER APPROVING PETITIONS FOR EXTENSION OF TIME  
AND CHANGE IN PLACE OF USE**

---

SOURCE: Gato Creek, Unnamed Stream tributary to Gato Creek  
COUNTY: Santa Barbara

---

**BY THE BOARD:**

1. The State Water Resources Control Board (State Water Board), Division of Water Rights (Division) issued Permits 17360 and 17361 to Timothy Doheny, William Doheny, and Lucy Washington on June 7, 1978, pursuant to Applications 24985 and 25165, and subsequently assigned the permits to Edwards Ranch, LLC (Permittee) on February 1, 2005.
2. Permits 17360 and 17361 originally required that construction work be completed by December 1, 1981, and that complete application of the water to the authorized use be completed by December 1, 1982.
3. Permittee requested, and on February 6, 1984 the Division granted, an extension of time to commence or complete construction work or apply the water to full beneficial use for Permits 17360 and 17361. The time extension order required that construction work be completed by December 1, 1986, and that complete application of the water to the authorized use be completed by December 1, 1987.
4. Permittee requested, and on December 28, 1990 the Division granted, an extension of time to commence or complete construction work or apply the water to full beneficial use for Permits 17360 and 17361. The time extension order required that construction work be completed by December 31, 1994, and that complete application of the water to the authorized use be completed by December 31, 1995.
5. On September 8, 1993, Permittee filed Application 30289 to appropriate water in order to add the ability to divert water by direct diversion using the same diversion facilities included in Permits 17360 and 17361. On the same date, Permittee filed a Petition for Change of Place of Use for Permit 17360, which reduced the total place of use by 51 acres.
6. On August 17, 2004, Permittee filed Petitions for Extension of Time to commence or complete construction work or apply water to beneficial use for Permits 17360 and 17361. In the petitions, Permittee stated that construction of water diversion and storage facilities was complete, but additional time was needed to complete beneficial use of the water. Permittee cited ongoing

review and coordination activities with the Department of Fish and Game as the primary reason for the delay in completing beneficial use.

7. 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.
8. Permittee has shown that due diligence has been exercised. Permittee has constructed all diversion facilities necessary to serve the full amount of water it can appropriate under Permits 17360 and 17361. Construction of the diversion works and distribution infrastructure are now complete. Permittee has diligently pursued processing of Application 30289, the Petition for Change, and the Petitions for Extension of Time. Permittee has planted 218 acres, or about 70 percent, of the place of use as proposed in the Petition for Change for Permit 17360.
9. Permittee has shown that failure to comply with previous time requirements has been occasioned by obstacles that could not be reasonably avoided. Permittee has cited a severe drought in the late 1980's in the watershed and delays resulting from coordination with the Department of Fish and Game and processing of the petitions and Application 30289. These factors have caused a delay in completing the processing of the petitions and Application 30289, which in turn served as an obstacle preventing Permittee from putting its permitted rights to full beneficial use.
10. Permittee has shown that satisfactory progress will be made if a time extension is granted. Permittee's diversion facilities are completed and operational, and Permittee has a plan to complete development of the proposed place of use, including development of the additional irrigated acreage and construction of residences, which are on hold pending approval of the petitions and Application 30289.
11. Permittee has shown good cause for the time extension.
12. The State Water Board has determined that the petition for change does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water. The State Water Board has also determined that good cause for such change has been shown.
13. Pursuant to Resolution No. 2002-0104, the State Water Board has delegated authority to the Executive Director to conduct and supervise the activities of the State Water Board.
14. On June 11, 2012, the Division provided notice of intent to adopt a mitigated negative declaration (SCH No. 2012061037) for the project. (Cal. Code Regs., tit. 14, § 15072.) The mitigated negative declaration reflects the Division's independent judgment and analysis. After considering the document and comments received during the public review process, the Division hereby determines that the proposed project, with mitigation measures, will not have a significant effect on the environment. The mitigated negative declaration is hereby adopted. The documents or other material, which constitute the record, are located at State Water Resources Control Board, Division of Water Rights, 2nd Floor Records Unit, 1001 I Street, Sacramento, CA. The Division will file a Notice of Determination within five days from the issuance of this order.

15. The permit conditions relating to the continuing authority and water quality objectives of the State Water Board should be updated to conform to California Code of Regulations, title 23, section 780, subdivisions (a) & (b).
16. Fish, wildlife, and plant species have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act. A condition should be placed in the permit making the Permittee aware of obligations resulting from these acts.
17. 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 PETITIONS FOR CHANGE OF PLACE OF USE AND EXTENSION OF TIME. THE ATTACHED AMENDED PERMITS, WHICH INCORPORATE THE CHANGE AND TIME EXTENSIONS, ARE ISSUED.**

STATE WATER RESOURCES CONTROL BOARD

*Victoria A. Whitney*  
for *Thomas M. Howard*  
Executive Director

Dated: **DEC 28 2012**