

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

ORDER WR 2013-0014-EXEC

In the Matter of Permit 14248 (Application 20601)
Sierra Lakes County Water District

**ORDER APPROVING PETITIONS FOR CHANGE
AND EXTENSION OF TIME**

SOURCE: Ice Lakes tributary to Serena Creek thence North Fork American River

COUNTY: Placer

BY THE BOARD:

1. The State Water Resources Control Board (State Water Board), Division of Water Rights (Division) issued Permit 14248 to Sierra Lakes County Water District (Permittee) on January 3, 1964, pursuant to Application 20601.
2. The permit requires that construction work be completed by June 1, 1964 and that the water be applied to the authorized use by December 1, 1966. The permit authorizes collection to storage of 1,177 acre feet per annum (afa) for municipal, industrial, fish culture and recreational purposes.
3. Permittee requested and has been granted the extensions of time in orders dated July 10, 1975, May 22, 1984 and March 31, 1995. The time to complete full beneficial use pursuant to the 1995 order ended on December 31, 2005.
4. In a May 15, 1991 Order, the Division added industrial use for snow making purposes to the permit. The order states that 9,000 gallons per day (gpd) may be used at Royal Gorge Cross-Country Ski area from November 15 to December 31. This is equivalent to 0.014 cubic foot per second (cfs).
5. On December 27, 2005, Permittee filed a petition for a 10-year extension of time within which to commence or complete construction work or apply water to beneficial use. Permittee also petitioned to change a portion of its storage right to a direct diversion right for 220 gpm. The change was needed due to the Division's reservoir accounting rules wherein water utilized when the reservoir is filling is considered to have been directly diverted. No physical change in operations or past diversion practices will occur. The Permittee paid the applicable filing fees.
6. Public notice of the request for an extension of time was issued on June 11, 2009 and no protests were received.

7. On October 4, 2011, Permittee revised the petitions for extension of time and change. Permittee requested to revise the petitioned direct diversion rate from 200 gpm to 340 gpm. This is equivalent to 0.76 cfs. A 30-year time extension is now requested. The revised petitions were not re-noticed.
8. Permittee prepared a Negative Declaration (ND), SCH # 2011102026, for the petitions. The ND describes lake storage as follows. Lake Serena and Lake Dulzura are natural lakes, the overflow from which flows into Serena Creek. The two lakes are separated by a narrow isthmus, and when water levels rise above elevation 6,869.0 feet, water inundates the isthmus and the two lakes combine into a single lake, referred to both as Ice Lakes and Serene Lakes. Ice Lakes Dam was constructed in the mid-20th century to raise the level of water in the two natural lakes behind it. It has since been retrofitted in various ways to increase its height. Historically, the lake level has always been high enough to keep the isthmus inundated and the lakes combined. A June 2007 bathymetric survey documents that the combined capacity of the two lakes is 783 af. The ND states that on average, between 2000 and 2009, Permittee used 117.7 afa. Water use per capita is relatively low because the subdivision has few year-round residents. Future water use is estimated to be 365 afa.

Review of the ND did not identify any terms for inclusion in amended Permit 14248. Permittee filed a Notice of Determination (NOD) on December 23, 2011. 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 a NOD within five days from the issuance of this order. The amended permit will limit beneficial use to 365 af because this was the maximum use evaluated in the ND.

9. 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.
10. Permittee has shown that due diligence has been exercised. The ND documents that 152 equivalent dwelling units were added from 2000 to 2011.
11. Permittee has shown that failure to comply with previous time requirements has been occasioned by obstacles that could not be reasonably avoided. Permittee has no control over individual landowner development of parcels. Permittee provides municipal water and sewer service (through contract with another entity) to the requesting properties if capacity is available at the time that the application for service is received. Placer County previously approved the Serene Lakes subdivision, which consists of 1,060 parcels. 246 of the 1,060 parcels have not yet been developed. The Permittee also serves other properties, some of which have not yet been developed.
12. Permittee has shown that satisfactory progress will be made if a time extension is granted. In the ND, Permittee documents that it intends to serve the undeveloped Serene Lakes subdivision lots. Also, Royal Gorge owns 9 undeveloped parcels which may require future water service.
13. Permittee has shown good cause for the time extension.

14. Approval of the change petition will not result in initiation of a new right provided that some of the existing storage capacity is re-assigned to direct diversion. Currently, the permit authorizes collection to storage of 1,177 af, including use of 0.014 cfs for snowmaking from November 15 to December 31.

The capacity of Serene Lakes is 783 af. Consequently, 394 af (1,177 af – 783 af = 394 af) is available for assignment to direct diversion. Amended Permit 14248 will authorize direct diversion of 0.76 cfs, except from November 15 to December 31 when 0.774 cfs may be directly diverted. It is not practical to expect Permittee to measure flows with this accuracy level. Consequently, the permit will authorize direct diversion of 0.8 cfs throughout the diversion season. The annual limit on direct diversion is 394 af.

15. The State Water Board has determined that good cause for such change has been shown.
16. The permit conditions relating to the continuing authority and water quality objectives of the State Water Board shall be added or updated to conform to section 780(a & b), title 23 of the California Code of Regulations.
17. 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.
18. 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 EXTENSION OF TIME AND CHANGE. THE ATTACHED AMENDED PERMIT, WHICH INCORPORATES THE TIME EXTENSION AND CHANGE, IS ISSUED.

STATE WATER RESOURCES CONTROL BOARD


Thomas Howard
Executive Director

Dated: **FEB 28 2013**

Attachment

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

DIVISION OF WATER RIGHTS

AMENDED PERMIT FOR DIVERSION AND USE OF WATER

APPLICATION 20601

PERMIT 14248

of:

Sierra Lakes County Water District
PO Box 1039
Soda Springs, CA 95728

Therefore, **Application 20601** filed on **February 8, 1962** has been approved by the State Water Board SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source of water

Source:

Ice Lakes

Tributary to:

Serena Creek thence

North Fork American River

within the County of Placer

2. Location of point of diversion

By California Coordinate System of 1983 in Zone 2	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
North 2,237,188 feet and East 7,019,162 feet	NE¼ of SE¼	34	17N	14E	MD

Location of place of storage

By California Coordinate System of 1983 in Zone 2	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
Serene Lakes North 2,237,188 feet and East 7,019,162 feet	NE¼ of SE¼	34	17N	14E	MD

3. Purpose of use	4. Place of use	Section (Projected)*	Township	Range	Base and Meridian	Acres
Municipal	Ice Lakes Subdivision No. 1 and 2 and the other lots within Sierra Lakes County Water District within a gross area of 2,442 acres in Sections 26, 27, 28, 34 and 35, T17N, R14E and Section 3, T 16N, R14E, MDB&M.					
Industrial	Royal Gorge Ski Area	27	17N	14E	MD	
Fish Culture	<u>Serene Lakes</u> NE¼ of SE¼	34	17N	14E	MD	
Recreational	<u>Serene Lakes</u> NE¼ of SE¼	34	17N	14E	MD	

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

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed **0.8 cubic foot per second** by direct diversion to be diverted from **October 1** of each year to **June 30** of the succeeding year, with an annual limit of **394 acre-feet** and **783 acre-feet per annum** by storage to be collected from **October 1** of each year to **June 30** of the succeeding year. The total amount of water to be taken from the source shall not exceed **1,177 acre-feet** per water year of October 1 to September 30. (0000005F)
6. This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose. (0000005I)
7. The capacity of the Serene Lakes (formed when the isthmus between Lake Serena and Lake Dulzura is inundated to form a single lake) covered under this permit shall not exceed **783 acre-feet**. The quantity authorized for beneficial use shall not exceed **365 acre-feet**. (0000005N)
8. Permittee shall limit the use of water for snow making purposes to a maximum of **9,000 gallons per day** for use at the Royal Gorge Cross-Country Ski area from **November 15 to December 31**. This quantity of water is included in the diversion amounts identified in condition 5 above, and is not in addition to the quantities listed in condition 5. (00000005)
9. Construction work and complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 31, 2042. (00000009)

10. Permittee shall install and maintain an outlet pipe of adequate capacity in the dam as near as practicable to the bottom of the natural stream channel in order that water entering the reservoir which is not authorized for appropriation under this permit can be released. Before starting construction, permittee shall submit plans and specifications of the outlet pipe, or alternative facility, to the Deputy Director for Water Rights for approval. Before storing water in the reservoir, permittee shall furnish evidence which substantiates that the outlet pipe has been installed in the dam. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer.

(0050043A)
 11. In accordance with the requirements of Water Code Section 1393, permittee shall clear the site of the proposed reservoir of all structures, trees, and other vegetation, which would interfere with the use of the reservoir for water storage and recreational purposes.

(0120050A)
 12. This permit is issued expressly subject to the terms of that certain stipulation dated September 11, 1963, between the applicant and San Juan Suburban Water District and placed on record in the office of the Division of Water Rights, in connection with Application 20601.

(0000024)
 13. Permittee shall consult with the Division of Water Rights and develop and implement a water conservation plan or actions. The proposed plan or actions shall be presented to the State Water Board for approval within one year from the date of this permit or such further time as, for good cause shown, may be allowed by the Board. A progress report on the development of a water conservation program may be required by the Board at any time within this period.

(0000029B)
- All cost effective measures identified in the water conservation program shall be implemented in accordance with the schedule for implementation found therein.

THIS PERMIT IS ALSO SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

- A. The amount authorized for appropriation may be reduced in the license if investigation warrants.

(0000006)
- B. Progress reports shall be submitted promptly by permittee when requested by the State Water Board until a license is issued.

(0000010)
- C. Permittee shall allow representatives of the State Water Board and other parties, as may be authorized from time to time by said State Water Board, reasonable access to project works to determine compliance with the terms of this permit.

(0000011)
- D. Pursuant to California Water Code sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of 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 permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee 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 permit 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 the permittee 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.

(0000012)

- E. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Board if, after notice to the permittee 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.

(0000013)

- F. This permit does not authorize any act that results in the taking of a threatened or endangered species or candidate species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & G. Code, §§ 2050 - 2097) or the federal Endangered Species Act (16 U.S.C.A. §§ 1531 - 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the state and federal Endangered Species Acts for the project authorized under this permit.

(0000014)

- G. Permittee shall maintain records of the amount of water diverted and used to enable the State Water Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code Section 1605.

(0000015)

- H. No water shall be diverted under this right, and no construction related to such diversion shall commence, until right holder obtains all necessary permits or other approvals required by other agencies. If an amended permit is issued, no new facilities shall be utilized, nor shall the amount of water diverted increase beyond the maximum amount diverted during the previously authorized development schedule, until right holder complies with the requirements of this term.

Within 90 days of the issuance of this permit 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.); or, (5) local grading permits.

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

(0000203)


This permit is issued and permittee 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 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

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


Barbara Evoy, Deputy Director
Division of Water Rights

Dated: FEB 28 2013