

2005 OCT 26 PM 3:32

PETITION FOR CHANGE
(WATER CODE 1700) and 1707

DIV. OF WATER RIGHTS
SACRAMENTO

Application X Point of Diversion, Point of Rediversion, X Place of Use, X Purpose of Use
 Permit License Statement or Other See Attachment

I (we) hereby petition for change(s) noted above and shown on the accompanying map and described as follows:

Point of Diversion or Rediversion (Give coordinate distances from section corner or other ties as allowed by Cal CR 715, and the 40-acre subdivision in which the present & proposed points lie.)

Present See Attachment

Proposed See Attachment

Place of Use (If irrigation then state number of acres to be irrigated within each 40-acre tract.)

Present See Attachment

Proposed See Attachment

Purpose of Use

Present See Attachment

Proposed See Attachment

Does the proposed use serve to preserve or enhance wetlands habitat, fish and wildlife resources, or recreation in or on the water (See WC 1707)? Yes

(yes/no)

• GIVE REASON FOR PROPOSED CHANGE: To increase flows in Sugar Creek for instream benefit through a water conservation project.

• WILL THE OLD POINT OF DIVERSION OR PLACE OF USE BE ABANDONED? No

(yes/no)

• WATER WILL BE USED FOR Irrigation and Instream Beneficial uses PURPOSES.

I (we) have access to the proposed point of diversion or control the proposed place of use by virtue of? Verbal Agreement

(ownership, lease verbal or written agreement)

Are there any persons taking water from the stream between the old point of return flow and the new point of return flow? No

(yes/no)

If by lease or agreement, state the name and address of party(s) from whom access has been obtained.

See Attachment

Give name and address of any person(s) taking water from the stream between the present point of diversion or rediversion and the proposed point of diversion or rediversion, as well as any other person(s) known to you who may be affected by the proposed change.

See Attachment

THIS CHANGE DOES NOT INVOLVE AN INCREASE IN THE AMOUNT OF THE APPROPRIATION OR SEASON OF USE.

I (we) declare under penalty of perjury that the above is true and correct to the best of my (our) knowledge and belief.

Dated October 21, 20 05 at Callahan, California

Spencer Max William E May
Signature(s)

(530) 467-3798
Telephone No.

NOTE: A \$1,000 fee, for each Application listed, made payable to the State Water Resources Control Board and an \$850 fee made payable to the Department of Fish and Game must accompany a petition for change.

10/26/05
\$1850.
Cm

**Attachment to Petition Form for Changes to Scott River Decree
Diversion # 178a-15-B11 – Marx (formally Davis/Peoples)**

General:

Project Background

The Sugar Creek instream flow project was originally proposed by the Siskiyou Resource Conservation District (SRCDD), and Scott River Watershed Council (SRWC), and Sugar Creek Water Users Group (SCWUG) to the California Department of Fish and Game (DFG) in the spring and summer of 2000. The intent of the proposal was to conserve water for instream benefit through improved delivery efficiency by piping up to 15 miles of existing earthen ditch. In addition, the Project will increase and protect minimum instream flows during low flow periods in the summer and fall months through agreements between the DFG and the SCWUG. The water conserved through the piping of the ditches would be shared among the water users and Sugar Creek for instream benefit.

The parties involved selected a proposal that called for piping the Darbee (Thamer) and Fay (Tobias/Barnes) Ditches, and relocating the Davis/Peoples (Marx) and Bunting (Gozzarino) diversions and conveyances to the Darbee pipeline. Currently, the Darbee Ditch piping project is complete and operational, and the Davis/Peoples (Marx) and Bunting (Gozzarino) diversions have been relocated to the Darbee Ditch. Due to both technical and legal issues, the piping of the Fay Ditch has not been pursued. Instead, the Tobias/Barnes group will dedicate a portion, or all, depending on time period and available flow, of their water right to instream beneficial uses within Sugar Creek.

Sugar Creek Water Users Group

The SCWUG represents all of the current active water users within the Sugar Creek watershed, each of whom are participants in the Sugar Creek instream flow project. This group has been and is willing to continue working together for the benefit of natural resources within Sugar Creek. The SCWUG have elected to submit individual requests for "petitions for change" together to the State Water Resource Control Board (Board) as one project to implement the water right changes necessary for the Sugar Creek instream flow project. The SCWUG members are:

Tom and Beverly Tobias
PO Box 1151
Trespinos, CA 95075

William and Jennifer Marx
PO Box 71
Etna, CA 96027

Rick Barnes
5508 East Callahan Road
Etna, CA 96027

Ed Gozzarino
505 B Street
Santa Rosa, CA 95401

Michael Thamer
1424 Wildcat Road
Callahan, CA 96014

Attachment to Petition for Change Form:

Water Right

Diversion # 178a-15-B11 of Marx (formally Davis/Peoples) as described in the Scott River Decree.

Point of Diversion or Rediversion

Present Points of Diversion:

As described within the Scott River Decree and shown on a USGS quadrangle map, the point of diversion is located at:

N 727,349', E 1,766,400' (California Coordinate Plane NAD 27')
Within the NW ¼ of SE ¼ of Section 11, T 40 N, R 9 W

Proposed Points of Diversion:

The petitioner proposes to add the Darbee Ditch as a point of diversion. The Darby Ditch is located at:

N 723,241', E 1,761,303' (California Coordinate Plane NAD 27')
Within the NW ¼ of SE ¼ of Section 15, T 40 N, R 9 W

Place of Use

Present Place of Use:

As described within the Scott river Decree,

10 Acres within the SW ¼ of NE ½ of Section 12, T 40 N, R 9 E
30 Acres within the SE ¼ of NE ¼ of Section 12, T 40 N, R 9 E

Proposed Place of Use:

Propose to add the reach of Sugar Creek between the Darby Ditch and the confluence of Sugar Creek and the Scott River.

N 723,241', E 1,761,303' to N 733,150, E 1,774,112' (California Coordinate Plane NAD 27')

Purpose of Use:

Current Purpose of Use:

Irrigation

Proposed Purpose of Use:

Irrigation and Instream Beneficial Uses for the benefit of fish and wildlife

Give Reason for Proposed Change:

The petitioners propose to increase spring, summer, and fall instream flows in most years in Sugar Creek by decreasing the amount of water diverted for agriculture use by means of elimination or reduction of ditch water conveyance losses. The increased stream flows within Sugar Creek will provide fishery and wildlife benefits, specifically for the rearing of juvenile coho salmon and steelhead, pursuant to and consistent with arrangements made with DFG.

ENVIRONMENTAL INFORMATION FOR PETITIONS

2. COUNTY PERMITS

a. Contact your county planning or public works department and provide the following information:

Person contacted: Ed Jacobson Date of contact: 10/25/05

Department: Siskiyou Co. Public Works Telephone: (530) 468-2421

County Zoning Designation: Agriculture

Are any county permits required for your project? YES NO If YES, check appropriate box below:

Grading permit Use permit Watercourse Obstruction permit Change of zoning

General plan change Other (explain): _____

b. Have you obtained any of the required permits described above? YES NO

If YES, provide a complete copy of each permit obtained.

See Attachment No. _____

3. STATE/FEDERAL PERMITS AND REQUIREMENTS

a. Check any additional state or federal permits required for your project:

Federal Energy Regulatory Commission U.S. Forest Service Bureau of Land Management

Soil Conservation Service Dept. of Water Resources (Div. of Safety of Dams) Reclamation Board

Coastal Commission State Lands Commission Other (specify) _____

b. For each agency from which a permit is required, provide the following information:

AGENCY	PERMIT TYPE	PERSON(S) CONTACTED	CONTACT DATE	TELEPHONE NO.
DFG	DFG 1602	Mark Pisano	8/18/05	(530) 842-9322

See Attachment No. _____

c. Does your proposed project involve any construction or grading-related activity that has significantly altered or would significantly alter the bed or bank of any stream or lake? YES NO

If YES, explain: _____

See Attachment No. _____

ENVIRONMENTAL INFORMATION FOR PETITIONS

- d. Have you contacted the California Department of Fish and Game concerning your project? YES NO
If YES, name and telephone number of contact: Mark Pisano

4. ENVIRONMENTAL DOCUMENTS

- a. Has any California public agency prepared an environmental document for your project? YES NO
If YES, submit a copy of the latest environmental document(s) prepared, including a copy of the notice of determination adopted by the California public agency. Public agency: Dept of Fish & Game
- b. If NO, check the appropriate box and explain below, if necessary:
- The petitioner is a California public agency and will be preparing the environmental document.*
 - I expect that the SWRCB will be preparing the environmental document.**
 - I expect that a California public agency other than the State Water Resources Control Board will be preparing the environmental document.* Public agency: _____

Department of Fish & Game

- See Attachment No. 4

* Note: When completed, submit a copy of the final environmental document (including notice of determination) or notice of exemption to the SWRCB, Division of Water Rights. Processing of your petition cannot proceed until these documents are submitted.

** Note: CEQA requires that the SWRCB, as Lead Agency, prepare the environmental document. The information contained in the environmental document must be developed by the petitioner and at the petitioner's expense under the direction of the SWRCB, Division of Water Rights.

5. WASTE/WASTEWATER

- a. Will your project, during construction or operation, (1) generate waste or wastewater containing such things as sewage, industrial chemicals, metals, or agricultural chemicals, or (2) cause erosion, turbidity or sedimentation?
 YES NO
If YES, or you are unsure of your answer, explain below and contact your local Regional Water Quality Control Board for the following information (See instruction booklet for address and telephone no.):

See Attachment No. _____

- b. Will a waste discharge permit be required for your project? YES NO

Person contacted: _____ Date of contact: _____

- c. What method of treatment and disposal will be used? _____

See Attachment No. _____

6. ARCHEOLOGY

- a. Have any archeological reports been prepared on this project? YES NO
- b. Will you be preparing an archeological report to satisfy another public agency? YES NO
- c. Do you know of any archeological or historic sites located within the general project area? YES NO

ENVIRONMENTAL INFORMATION FOR PETITIONS

If YES, explain: _____

See Attachment No. ____

7. ENVIRONMENTAL SETTING

Attach **three complete sets of color photographs**, clearly dated and labeled, showing the vegetation that exists at the below-listed three locations. For time extension petitions, the photographs should document only those areas of the project that will be impacted during the requested extension period.

- Along the stream channel immediately downstream from the proposed point(s) of diversion.
- Along the stream channel immediately upstream from the proposed point(s) of diversion.
- At the place(s) where the water is to be used.

See Attachment

8. CERTIFICATION

I hereby certify that the statements I have furnished above and in the attachments are complete to the best of my ability and that the facts, statements, and information presented are true and correct to the best of my knowledge.

Date: 10/21/05

Signature: Jennifer Chaix
William I. Mass

Environmental Information Form

1. Description of Proposed Changes or Work to be Completed

The petitioner, William Marx, currently diverts water under adjudicated rights pursuant to the Scott River Decree (Decree). The petitioner, together with other individual water users within Sugar Creek have proposed a project to conserve water for instream benefit within Sugar Creek, herein the Sugar Creek Flow Enhancement Through Diversion Piping Project (Project). The Project will make water available for instream beneficial use (fishery and wildlife enhancement) within Sugar Creek in two ways. First, the Project will increase instream flows through the dedication of conserved water made available as a result of piping the earthen Darbee irrigation ditch and thereby reducing or eliminating conveyance losses. Second, the Project will increase and protect minimum instream flows during low flow periods in the summer and fall months through agreements between the Department of Fish and Game and the Sugar Creek water users.

This petition has been prepared under Water Code Section 1707 to facilitate the changes necessary under the Project to Mr. Marx's decreed water rights. As part of the project, Mr. Marx has relocated his point of diversion from the former Davis/Peoples Ditch, identified as Diversion #178a-15-B11 in the Decree, to the Darby Ditch identified in the Decree as Diversion #173-15-B11. The petitioner is also seeking to add the reach of Sugar Creek downstream of the Darby Ditch to the confluence of Sugar Creek and the Scott River, and to add instream beneficial use for fishery and wildlife enhancement to the authorized purposes of use of his decreed water rights. The various points of diversion and proposed place of use involved in the Project are shown in a map attached to the petitions. There will be no changes under the Project to the existing irrigated place of use under Marx's decreed water rights.



Looking upstream at Darbee Ditch diversion dam

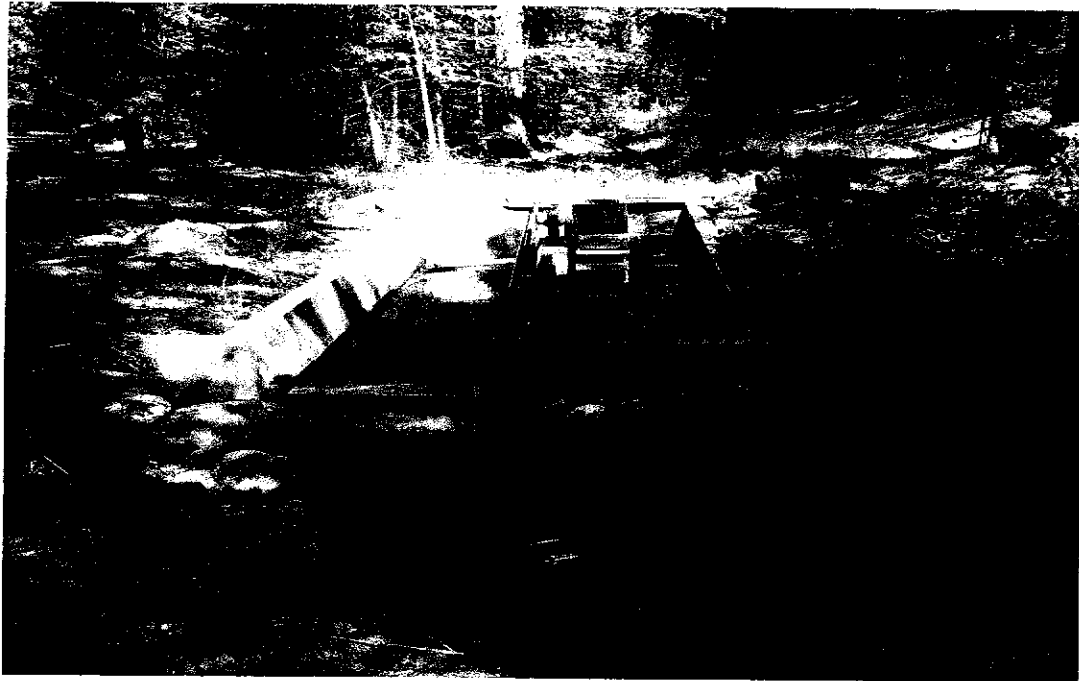


Looking downstream from Darbee Ditch diversion dam

Sugar Creek 08/04/2005

Photographer -Marc Van Camp

MBK 
ENGINEERS



Looking downstream at Darbee Ditch fish screen structure



At Gage site below Darbee Ditch

Sugar Creek 08/04/2005

Photographer - Marc Van Camp

MBK 
ENGINEERS



From left bank looking at head of Fay Ditch



Fay Ditch

Sugar Creek 08/04/2005

Photographer -Marc Van Camp

MBK 
ENGINEERS