

2009 FEB 18 AM 11:25  
DIVISION OF WATER RIGHTS

**PETITION FOR CHANGE**  
(WATER CODE 1700)

\_\_\_\_ Point of Diversion, \_\_\_\_ Point of Rediversion, X Place of Use, \_\_\_\_ Purpose of Use  
Application 1483 Permit 4592 License 2329 Statement or Other \_\_\_\_\_

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 CCR, tit. 23, section 715, and the 40-acre subdivision in which the present and proposed points of diversion lie.)

Present \_\_\_\_\_  
Proposed \_\_\_\_\_

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

Present 4,422.21 acres within description of land in License 2329  
Proposed 105 acres within SW 1/4 of Section 25 and N 1/2 of NW 1/4 of Section 36, T1N, R9W, SBB&M

**Purpose of Use**

Present Irrigation and domestic  
Proposed Irrigation

Does the proposed use serve to preserve or enhance wetlands habitat, fish and wildlife resources, or recreation in or on the water (See Water Code section 1707)? No  
(yes/no)

• GIVE REASON FOR PROPOSED CHANGE: Development of area and conjunctive use of groundwater and imported water supplies on the current licensed place of use

• WILL THE OLD POINT OF DIVERSION OR PLACE OF USE BE ABANDONED? No  
(yes/no)

• WATER WILL BE USED FOR Irrigation PURPOSES.

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

\_\_\_\_\_  
\_\_\_\_\_

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.

\_\_\_\_\_

**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 February 12, 2009 at Anaheim, California

[Signature]  
Signature(s)  
**WATER RESOURCES MANAGER**

714-535-7711 x314  
Telephone No.

**NOTE:** All petitions must be accompanied by the fee (see fee schedule at [www.waterrights.ca.gov](http://www.waterrights.ca.gov)), made payable to the State Water Resources Control Board (State Water Board) and an \$850 fee made payable to the Department of Fish and Game must accompany the petition. Separate petitions are required for each water right. Separate State Water Board fees are required if both a change and time extension petition are being filed.

Rec'd  
\$1513.15  
\$850.00  
2/19/09

California Environmental Protection Agency

State Water Resources Control Board

DIVISION OF WATER RIGHTS

P.O. Box 2000, Sacramento, CA 95812-2000

Info: (916) 341-5300, FAX: (916) 341-5400, Web: http://www.waterrights.ca.gov

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SWRCB (916) 341-5300  
DIV. OF WATER RIGHTS

ENVIRONMENTAL INFORMATION FOR PETITIONS

Petition for Change

Petition for Extension of Time

Before the State Water Resources Control Board (SWRCB) can approve a petition to change your water right permit or a petition for extension of time to complete use, the SWRCB must consider the information contained in an environmental document prepared in compliance with the California Environmental Quality Act (CEQA). This form is not a CEQA document. If a CEQA document has not yet been prepared, a determination must be made of who is responsible for its preparation. As the petitioner, you are responsible for all costs associated with the environmental evaluation and preparation of the required CEQA documents. Please answer the following questions to the best of your ability and submit any studies that have been conducted regarding the environmental evaluation of your project. If you need more space to completely answer the questions, please number and attach additional sheets.

1. DESCRIPTION OF PROPOSED CHANGES OR WORK REMAINING TO BE COMPLETED

For a petition to change, provide a description of the proposed changes to your project including, but not limited to, type of construction activity, structures existing or to be built, area to be graded or excavated, increase in water diversion and use (up to the amount authorized by the permit), changes in land use, and project operational changes, including changes in how the water will be used. For a petition for extension of time, provide a description of what work has been completed and what remains to be done. Include in your description any of the above elements that will occur during the requested extension period.

Change in place of use as listed in License 2329 in order to conform license to actual diversions. The place of use has changed due to local development, and conjunctive use of groundwater and imported water to supply the larger place of use as listed in License 2329 currently. The license change does not include any construction or change in the actual place of use. The new use is for irrigation of a golf course owned by the City of San Dimas, which is located within 105 acres in the SW 1/4 of Section 25 and the N 1/2 of the NW 1/4 of Section 36, T1N, R1W, SBB&M. The current licensed place of use is 4,421.1 acres in Sections 34, 35 and 36, T1N, R9W, SBB&M, and Sections 1 through 11 and 15 through 18, T1S, R9W, SBB&M, as shown on the map titled "San Dimas Water Company" filed March 12, 1938, with the Div. of Water Resources.

See Attachment No. \_\_\_\_

ENVIRONMENTAL INFORMATION FOR PETITIONS

**2. COUNTY PERMITS**

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

Person contacted: Annabel Aquilar Date of contact: February 6, 2009

Department: Public Works Department Telephone: ( 909 ) 394 - 6243

County Zoning Designation: OS (Open Space)

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.

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: \_\_\_\_\_

**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: \_\_\_\_\_
- 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: \_\_\_\_\_

See Attachment No. 1

\* 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? Not applicable

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**

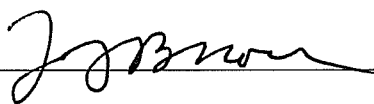
Attach **three complete sets of color photographs**, clearly dated and labeled, showing the vegetation that exists at the below-listed three locations. For time extension petitions, the photographs should document only those areas of the project that will be impacted during the requested extension period.

- 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.

**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: 02-12-09

Signature: 

## **Attachment No. 1**

The action of the State Water Resources Control Board (SWRCB) on the Petition to Change License 2329 (Petition), filed by Golden State Water Company (GSWC), is not subject to CEQA. The activities proposed under the Petition were originally approved on November 10, 1941 and the operations were subsequently adjusted while maintaining existing facilities to meet fluctuating conditions in 1971. Approved residential development prior to 1971 caused the need to shift from crop irrigation to irrigation use at the San Dimas Golf Course (Golf Course). The places where water under License 2329 has been used for irrigation are located in close proximity to each other, both in the San Dimas Canyon Area. At the time of the original project approval in 1941, CEQA was not yet enacted. Furthermore in 1971, when the subsequent minor shift in the project occurred, private projects were exempt from CEQA. The Petition does not request an expansion or significant modification of these activities, and therefore, CEQA does not apply.

## **Project Description**

On October 11, 1919, Application No. 1483 was filed by San Dimas Water Company (GSWC's predecessor) with the California Division of Water Resources, Department of Public Works (the Division) for an appropriation of 4,000 acre-feet per year to be diverted from January 1 through December 31 at a maximum rate of 11.25 cfs, either from natural flow of San Dimas Canyon, or regulated flow made available by release from storage collected in the Los Angeles County Flood Control Reservoir. After release from storage, the waters would flow down San Dimas Creek where they would be rediverted to the place of use for agricultural and domestic purposes.

License 2329 was issued to San Dimas Water Company on November 10, 1941, and filed with the Los Angeles County Recorder on November 28, 1941. License 2329 authorized San Dimas Water Company to divert, for irrigation and domestic uses, 7.0 cfs from April 1 through December 31 of each year, with total diversions not to exceed 1,720.5 acre-feet of water per year.

Through several transfers in ownership, GSWC has obtained all rights in License 2329. GSWC is a private water company. Before and since License 2329 was issued, water has been placed to beneficial use for irrigation in the San Dimas Canyon Area. The operations under License 2329 have undergone little change since 1941. From the date of issuance of the License in 1941, water has been diverted at the same point and used for irrigation in the San Dimas Canyon Area. Since at least 1971, water has been applied to beneficial use at the Golf Course. The SWRCB verified this fact in its Division of Water Rights Inspection in April 1990.

## **Statutory Exemption Under CEQA**

CEQA became effective on November 23, 1970. Initially, CEQA was interpreted to apply only to public projects. *See Russian Hill Improvement Assn. v. Board of Permit Appeals*, 44 Cal.App.3d 158, 161 (1974). However, the California Supreme Court decision in *Friends of Mammoth v. Board of Supervisors*, 8 Cal.3d 247, 252 (1972), directly held that CEQA applies to private activities for which a government permit or other entitlement for use is necessary. In response to the *Friends of Mammoth* decision, the California Legislature passed urgency

legislation that validated the approval of private projects that were completed or approved prior to December 5, 1972, regardless of whether the project was subjected to CEQA review. As codified, Public Resources Code section 21169 validates projects that were “undertaken, carried out or approved on or before the effective date of this section,” notwithstanding a failure to comply with CEQA. In addition to the validation provided by section 21169, the Legislature enacted an additional moratorium of the application of CEQA to private projects. Under Public Resources Code section 21171, CEQA did not apply to private projects until the 121st day after the effective date of CEQA, i.e., April 5, 1973.

Under CEQA the relevant cases hold that an ongoing project exemption is available so long as the new approval does not contemplate an expansion or revision to the existing project, and does not require substantially more control over the project than existed under the previous approval. See *Nacimiento Regional Water Management Advisory Comm. v. Monterey County Water Resources Agency*, 15 Cal.App.4th 200, 207 (1993); *Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster*, 52 Cal.App.4th 1165 (1997). The test, according to the *Nacimiento* decision, is “whether [an activity] expands or enlarges project facilities or whether it merely monitors and adjusts the operation of existing facilities to meet fluctuating conditions.” *Id.*

In the License 2329 Petition, the use of water at the Golf Course does not enlarge the previous operations originally approved in 1941, decades prior to the need to perform CEQA. Rather the Petition simply seeks to adjust the license terms while maintaining existing facilities to meet fluctuating conditions. The Petition does not require substantially more control over the project that existed under the previous approval. In fact, the Petition actually seeks to reduce the amount of water under the Petition. The same diversion point and facilities have been used and that use will be continued under the Petition as originally approved in the 1941 License.

Water is currently used in the same San Dimas Canyon area, but there will be a minor change to the place of use to reflect the shift in irrigation that was needed to address the development in the late 1960s. The Golf Course straddles Sections 25 and 36 in T1N, R9W, S.B.B.M, the original place of use under License 2329 includes the use in Section 36 but not Section 25. However, the authorized diversion point is located in the Section 25. Water under License 2329 will continue to be used for irrigation from April 1 through December 31 of each year. However the usage rate of 7.0 cfs with total diversions not to exceed 1,720.5 acre-feet of water per year, authorized in the License, will be greatly reduced. The Petition does not expand the original License granted in 1941 rather it reduces it to reflect current operations. Therefore the SWRCB’s actions to approve the Petition are exempt from CEQA.

Further, CEQA does not apply to private actions taken prior to April 5, 1973, and GSWC and its predecessors in interest for License 2329 have all been private companies. The use of water at the Golf Course under License 2329 was originally documented in 1971. Starting in 1971, the Report of Licensee for License 2329 identified that water diverted under that right was being used for irrigation at the Golf Course. This diversion under License 2329 for use at the Golf Course has continued to the present day. This use was confirmed by the SWRCB in their April 18, 1990, Division of Water Rights inspection and previous Reports of Licensee. Because this is a private project initiated prior to 1973, the Petition is therefore exempt from CEQA.