
State Water Resources Control Board

TO: Erik Ekdahl
Deputy Director
DIVISION OF WATER RIGHTS

FROM: Eileen Sobeck *ORIGINAL SIGNED BY*
Executive Director
STATE WATER RESOURCES CONTROL BOARD

DATE: December 17, 2020

SUBJECT: DELEGATION OF AUTHORITY TO THE DEPUTY DIRECTOR FOR WATER RIGHTS TO HOLD A PUBLIC HEARING AND TAKE ACTION ON AMADOR WATER AGENCY'S PETITION FOR ASSIGNMENT OF STATE-FILED APPLICATION 5647

Pursuant to this memorandum, the Executive Director of the State Water Resources Control Board (State Water Board or Board) delegates to the Deputy Director for Water Rights (Deputy Director) the authority necessary to: (1) take action on Amador Water Agency's (AWA) pending petition for assignment of State-Filed Application (SFA) 5647; and (2) order a partial reversion of the right to divert water under Jackson Valley Irrigation District's (JVID) Permit 12167 (SFA 5648). Pursuant to its petition for assignment of SFA 5647 and accompanying Application 5647X03, AWA seeks to directly divert up to 1,050 acre-feet per annum (afa) from the North Fork Mokelumne River and the Bear River, a tributary to the North Fork Mokelumne River, and to divert to storage in Lower Bear Reservoir up to 1,400 afa. The total maximum amount of water that AWA proposes to put to beneficial use is 1,050 afa. AWA is requesting a corresponding reversion to the State of JVID's right to divert 1,050 afa under JVID's Permit 12167. Permit 12167 currently authorizes JVID to directly divert 3,850 afa from the Mokelumne River, subject to the reversion to the State of any amount of water that the Board determines is required for use in Amador County.

The State Water Board issued public notice of AWA's petition for assignment of SFA 5647 and Application 5647X03 in 2006. In response, JVID, the East Bay Municipal Utility District (EBMUD), the Department of Water Resources (DWR), and the U.S. Bureau of Reclamation (Reclamation) filed protests with the Board on the grounds that approval of Application 5647X03 would result in injury to their water rights. EBMUD and JVID withdrew their protests in 2007 and 2013, respectively, subject to certain terms, but EBMUD and JVID did not sign formal agreements with AWA based on those terms. Reclamation withdrew its protest on April 28, 2020. Because DWR's protest

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

remained unresolved, the State Water Board issued public notice on July 7, 2020, that the Board would hold an evidentiary hearing on AWA's petition and application on September 28, 2020. After the hearing notice was issued, however, and before the scheduled hearing dates, AWA entered into formal protest dismissal agreements with EBMUD, JVID, and DWR.

Now that all of the protests have been resolved, an evidentiary hearing on AWA's petition and application is no longer required. Water Code section 1351 provides that no hearing is necessary in order to issue a permit on an unprotested water right application, or if undisputed facts support the issuance of a permit and there is no disputed issue of material fact. In general, petitions for assignment of SFA's and their companion applications are processed in the same manner as regular applications. (Wat. Code, § 10504.01.) Water Code section 10504.1 requires the State Water Board to hold a public hearing before approving a petition for assignment of a SFA to allow interested persons to present their views and objections, but section 10504.1 does not require the Board to hold an evidentiary hearing. A public hearing, where members of the public have an opportunity to express their views, is required, but not an evidentiary hearing, where witnesses are under oath and subject to cross examination.

[State Water Board Resolution No. 2012-0029](#), paragraph 4.2.4, delegates to the Deputy Director the authority to act on a water right application if no hearing is required in accordance with Water Code section 1351. Accordingly, the Deputy Director has delegated authority to act on AWA's application, but the Deputy Director does not have delegated authority to hold the non-evidentiary, public hearing required to act on AWA's petition for assignment of SFA 5647, to take action on the petition, or to order a partial reversion of JVID's Permit 12167. The Board has delegated to the Executive Director the authority to conduct the activities of the State Water Board, which include holding public hearings and taking action on petitions for assignment of SFA's, and taking other actions to administer water rights, such as ordering the reversion of water under JVID's permit. ([State Water Board Resolution No. 2012-0061](#), ¶ 1.) This authority may be redelegated. (*Id.*, ¶ 10.)

Consistent with the Deputy Director's authority to act on AWA's application, it is appropriate for the Deputy Director to act on AWA's petition and request for partial reversion of JVID's permit as well. In addition, it is more efficient for AWA's application and petition to be processed by the Deputy Director under delegated authority, as opposed to bringing this matter to the full Board. Accordingly, I delegate to the Deputy Director the authority to hold a public hearing and take action on AWA's pending petition for assignment of SFA 5647, and to order the reversion of up to 1,050 afa under JVID's Permit 12167.