



**APPENDIX J**

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**CCWD Water Rights Documentation**

**CONTRA COSTA WATER DISTRICT**  
**Interoffice Memorandum**

**Date :** May 14, 1993

**To :** File

**From :** Richard Denton

**Subject:** Mallard Slough Licenses, Permits and Agreements

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District and its predecessor, California Water Service Company, has been diverting water from Mallard Slough since 1930.

License for Diversion and Use of Water, License # 10514

License dated August 12, 1975

Application # 5941 (filed November 19, 1928)

Water Right Permit to Appropriate Water # 3167

Municipal and industrial uses

- (a) 39.3 cfs January 1 to December 31
- (b) 3,780 acre-feet/year to storage
- (c) Total diversion and storage £ 14,880 acre-feet
- (d) Total put to beneficial use £ 13,690 acre-feet

Permit for Diversion and Use of Water, Permit # 19856

Permit dated July 3, 1986

Application # 27893 (filed September 28, 1983)

Municipal and industrial uses

- (a) 39.3 cfs August 1 to December 31
- (b) Total diversion £ 11,900 acre-feet
- (c) No diversion allowed when supplemental project (SWP & CVP) water being released (excluding carriage water!)

DWR/CCWD Agreement, Mallard Slough Water Quality

April 21, 1967 (began October 1, 1967)

Based on water year (October through September)

Reimbursement request to DWR should be completed early January

Mallard Slough Permits  
May 14, 1993  
Page 2

Mean tidal cycle surface zone water quality of 100 mg/l chlorides

Average number of days of availability = 142

Median period = January 15 through June 5, inclusive

$$E = (142-D)/3 * (R + P)/142$$

where E is entitlement in acre-feet,  
D is number of days during year that usable river water is available at Mallard Slough,  
R is total Mallard Slough diversion (8:00 am on January 15 to 8:00 am) on June 6, and  
P is total pumping at Rock Slough (8:00 am on January 15 to 8:00 am on June 6.

$$M = E (C_w + C_e - \$4.90)$$

where M is the amount in dollars to be paid by the State,  
C<sub>w</sub> is cost of substitute water  
C<sub>e</sub> is cost of electrical power.

Total Mallard Slough diversion limited to 26,780 acre-feet/year

39.3 cfs for 365 days = 28,452 acre-feet

770

STATE OF CALIFORNIA

STATE WATER RESOURCES CONTROL BOARD  
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 19856

Application 27893 of Contra Costa Water District

P.O. Box R20 Concord, California 94524

filed on September 28, 1983, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

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

1. Source:	Tributary to:
<u>Mallard Slough</u>	<u>Suisun Bay</u>
_____	_____
_____	_____
_____	_____

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
<u>Mallard Slough Pump Station North 5,900 feet and East 1,400 feet from NE corner of Section 14</u>	<u>SE<math>\frac{1}{4}</math> of SW<math>\frac{1}{4}</math></u>	<u>1</u>	<u>2N</u>	<u>1W</u>	<u>MD</u>

County of Contra Costa

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acres
<u>Municipal and Industrial</u>	<u>Within the water service area of Contra Costa Water District as shown on map filed with the State Water Resources Control Board.</u>					

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

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 39.3 cubic feet per second to be diverted from August 1 to December 31 of each year. The maximum amount diverted under this permit shall not exceed 11,900 acre-feet per year. (0000005)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)

7. Complete application of the water to the authorized use shall be made by December 1, 2000. (0000009)

8. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued. (0000010)

9. Permittee shall allow representatives of the State Water Resources Control Board and other parties as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)

10. 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 the State Water Resources Control 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 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 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 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 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)

11. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the 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 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)

12. Permittee shall consult with the Division of Water Rights and, within one year from the date of this permit shall submit to the State Water Resources Control Board its Urban Water Management Plan as prepared and adopted in conformance with Section 10610, et seq. of the California Water Code, supplemented by an additional information that may be required by the Board.

All cost-effective measures identified in the Urban Water Management Plan and as supplemented, shall be implemented in accordance with the schedule for implementation found therein. (0000029)

13. This permit is subject to prior rights. Permittee is put on notice that during some years water will not be available for diversion during portions or all of the season authorized herein. The annual variations in demands and hydrologic conditions in the Sacramento-San Joaquin Delta are such that in any year of water scarcity the season of diversion authorized herein may be reduced or completely eliminated on order of this Board made after notice to interested parties and opportunity for hearing. (0000090)

14. No diversion is authorized by this permit when satisfaction of inbasin entitlements requires release of supplemental Project water by the Central Valley Project or the State Water Project.

- A. In basin entitlements are defined as all rights to divert water from streams tributary to the Sacramento-San Joaquin Delta or the Delta for use within the respective basins of origin or the Legal Delta, unavoidable natural requirements for riparian habitat and conveyance losses, and flows required by the State Water Resources Control Board for maintenance of water quality and fish and wildlife. Export diversions and Project carriage water are specifically excluded from the definition of inbasin entitlements.
- B. Supplemental Project water is defined as water imported to the basin by the projects, and water released from Project storage, which is in excess of export diversions, Project carriage water, and Project inbasin deliveries.

The State Water Resources Control Board shall notify the permittee of curtailment of diversion under this term after it finds that supplemental Project water has been released or will be released. The Board will advise the permittee of the probability of imminent curtailment of diversion as far in advance as practicable based on anticipated requirements for supplemental Project water provided by the Project operators. (0000091)

15. The State Water Resources Control Board reserves jurisdiction over this permit to change the season of diversion to conform to later findings of the Board concerning protection of beneficial uses of water in San Francisco Bay and Suisun Marsh. Action to change the season of diversion will be taken only after notice to interested parties and opportunity for hearing. (0000094)

16. Permittee shall, when required by the Department of Fish and Game under applicable provisions of the Fish and Game code comply with such modifications to the diversion structure including fish exclusion provisions as may be necessary to protect fishlife. (0140500)

17. This permit shall not be construed as conferring upon the permittee an easement upon or right-of-way across lands of the State of California or an easement upon or a right-of-way across lands subject to easement of the State of California. (0350999)

**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, when 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).

Dated: JULY 3 1986

STATE WATER RESOURCES CONTROL BOARD

L. D. JOHNSON

Chief, Division of Water Rights

THIS IS YOUR COPY OF THE LICENSE.  
A COPY IS BEING RECORDED WITH THE COUNTY RECORDER.



STATE OF CALIFORNIA  
THE RESOURCES AGENCY  
STATE WATER RESOURCES CONTROL BOARD  
DIVISION OF WATER RIGHTS

### License for Diversion and Use of Water

APPLICATION 5941 PERMIT 3167 LICENSE 10512

THIS IS TO CERTIFY, That **CONTRA COSTA COUNTY WATER DISTRICT**  
**P. O. BOX 757, CONCORD, CALIFORNIA 94522**

was made proof as of **APRIL 23, 1871** (the date of inspection)  
to the satisfaction of the State Water Resources Control Board of a right to the use of the water of  
**MALLARD SLOUGH IN CONTRA COSTA COUNTY**

tributary to **SUISUN BAY**

for the purpose of **MUNICIPAL AND INDUSTRIAL USES**  
under Permit **3167** of the Board and that the right to the use of this water has been perfected  
in accordance with the laws of California, the Regulations of the Board and the permit terms; that the  
priority of this right dates from **JUNE 13, 1924** and that the amount of water to which  
this right is entitled and hereby confirmed is limited to the amount actually beneficially used for the stated  
purposes and shall not exceed (A) **THIRTY-NINE AND THREE-TENTHS (39.3) CUBIC FEET PER**  
**SECOND BY DIRECT DIVERSION, TO BE DIVERTED FROM JANUARY 1 TO DECEMBER 31 OF EACH**  
**YEAR; AND (B) THREE THOUSAND SEVEN HUNDRED EIGHTY (3,780) ACRE-FEET PER ANNUM**  
**BY STORAGE, TO BE COLLECTED FROM JANUARY 1 TO DECEMBER 31 OF EACH YEAR. THE**  
**TOTAL AMOUNT OF WATER TO BE TAKEN FROM THE SOURCE (DIRECT DIVERSION PLUS ?**  
**COLLECTION TO STORAGE) SHALL NOT EXCEED (14,880 ACRE-FEET PER CALENDAR YEAR. THE**  
**TOTAL AMOUNT OF WATER TO BE PLACED TO BENEFICIAL USE SHALL NOT EXCEED 13,690**  
**ACRE-FEET PER CALENDAR YEAR.**

*water year  
yields direct  
diver = 12,239  
+ Storage  
withdrew 2,647  
-----> 14,886  
14,55*

*12,239  
- 3,072  
-----> 15,311 water year yields*

THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:

AT MALLARD SLOUGH PUMPING PLANT, BEING NORTH 5,900 FEET AND EAST 1,400 FEET FROM  
THE CORNER OF SECTION 14, T2N, R1W, MDS&N, BEING WITHIN SE1/4 OF SW1/4 OF SECTION 1,  
T2N, R1W, MDS&N.

A DESCRIPTION OF LANDS OR THE PLACE WHERE  
SUCH WATER IS PUT TO BENEFICIAL USE IS AS FOLLOWS:

WITHIN THE ULTIMATE WATER SERVICE AREA OF CONTRA COSTA COUNTY WATER DISTRICT, AS  
SHOWN ON MAP FILED WITH STATE WATER RESOURCES CONTROL BOARD.

THIS LICENSE SHOULD NOT BE CONSTRUED AS CONFIRMING IN LICENSEE AN EASEMENT  
UPON OR RIGHT OF WAY ACROSS LANDS OF THE STATE OF CALIFORNIA OR AN EASEMENT UPON  
OR RIGHT OF WAY ACROSS LANDS SUBJECT TO EASEMENT OF THE STATE OF CALIFORNIA.

Licensee shall allow representatives of the Board and other parties, as may be authorized from time to time by the Board, reasonable access to project works to determine compliance with the terms of this license.

All rights and privileges under this license, including method of diversion, method of use and quantity of water diverted are subject to the continuing authority of the Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

~~This continuing authority of the Board may be exercised in imposing specific requirements, in excess of those contained in this license, with respect to: (a) limiting quantity of water used to operating the reasonable water requirements of licensee without unreasonable depletion of the source; (b) licensee may be required to implement such programs as: (1) issuing an order limiting the water allocation; (2) restricting diversions; (3) to eliminate agricultural fallow water; (4) to utilize other flows; (5) increasing evaporation losses from water surfaces; (6) controlling phytoplankton growth; and (7) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine reasonably water use against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the 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.~~

Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time to time by the Board.

The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.

This license is granted and licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the Board.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license 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 1628. Every license 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 license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license 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 license 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 licensee 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 licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

Dated: AUG 12 1975

STATE WATER RESOURCES CONTROL BOARD

*R. L. Rosenberg*  
Chief, Division of Water Rights



AGREEMENT

THIS AGREEMENT made this 21 day of April, 1967, between the STATE OF CALIFORNIA, acting by and through its Department of Water Resources, hereinafter referred to as the "State", and CONTRA COSTA COUNTY WATER DISTRICT, a public body organized and existing pursuant to Division 12 of the Water Code of the State of California, hereinafter referred to as the "District",

WITNESSETH:

WHEREAS, since 1930 the District and its predecessor, California Water Service Company, have been diverting water from Mallard Slough on Suisun Bay in Contra Costa County pursuant to Water Right Permit to Appropriate Water number 3167 issued on Application number 5941 filed on November 19, 1928. Said diversions have been for direct beneficial use and to storage for later beneficial use within the service area of the Treated Water Division of the District when the water in Mallard Slough had a chloride ion content (mean tidal cycle surface zone) of 100 parts per million or less and was not otherwise polluted to make it unsuitable for treatment for municipal and domestic use (hereinafter referred to as usable river water), and

WHEREAS, the average number of days per water year (October 1 to September 30, hereinafter referred to as "year") that usable river water has been available to the District at said point of diversion is 142 and the median period of said availability is from January 15 to June 5, both days inclusive, and

WHEREAS, during each day usable river water has been and will in the

future be available to the District the quantity thereof has been and will be adequate to meet the water requirements of the District from that point of diversion during such day, and

WHEREAS, in the future the average number of days per year that usable river water will be available to the District will decrease and such decrease will be due in part to the operation of the State Water Resources Development System as defined in Section 12931 of the Water Code, and

WHEREAS, it is contemplated that the Contra Costa Canal, supplemented by the Kellogg Unit or other facilities to be constructed by the Bureau of Reclamation, will meet the District's future water requirements which are not met by usable river water. If such facilities are not constructed by the Bureau of Reclamation, water supply facilities will have to be constructed by another agency or agencies to meet the District's future requirements including a substitute water supply equal to the District's water deficiency entitlement as defined in this agreement;

NOW, THEREFORE, the parties agree as follows:

1. The term of this agreement shall begin on the first day of October, 1967, and shall continue in effect until terminated by either party by written notice to the other party given at least 12 months prior to the effective date of such termination. The effective date of termination shall be the last day of a year (September 30) and no termination shall be effective prior to September 30, 2007.

2. The State shall reimburse the District in the manner hereinafter provided for any decrease in availability to the District of usable river water

in Mallard Slough during the term of this agreement caused by operation of the State Water Resources Development System. Such decrease in availability of usable river water is hereinafter referred to as the District's "water deficiency entitlement".

3. The quantity of the District's water deficiency entitlement shall be determined for each year during the term of this agreement by the formula  $E = \frac{(142 - D)}{3} \frac{(R + P)}{142}$  where E is the District's water deficiency entitlement for such year in acre-feet, D is the number of days during such year that usable river water is available to the District at Mallard Slough, R is the total quantity of water in acre-feet diverted by the District from Mallard Slough from 8:00 A. M. on January 15 to 8:00 A. M. on June 6 and P is the total quantity of water in acre-feet purchased by the District and introduced into its facilities in the vicinity of Chenery Reservoir from 8:00 A. M. on January 15 to 8:00 A. M. on June 6. If in any year D exceeds 142, the District shall have no water deficiency entitlement for such year and the amount of such excess shall offset any water deficiency entitlement of the District for an equal number of days in the next succeeding year or years when D is less than 142.

4. For the purpose of computing the District's water deficiency entitlement, the District will at its expense measure the chloride ion content of water in Mallard Slough at such intervals as shall be reasonably necessary and shall make the results of such measurements available to the State. The State may at its expense verify the accuracy of the District's measurements and any error thus disclosed shall be corrected by the District.

5. Each year during the term of this agreement that the District has a water deficiency entitlement it shall purchase a quantity of substitute water equal thereto from the Contra Costa Canal as supplemented by the Kellogg Unit or other facilities constructed by the Bureau of Reclamation to meet the District's requirement, but if sufficient water is not available to the District from such source it shall purchase said quantity of substitute water from a project or projects constructed by another agency or agencies to meet the District's future water requirements. For the purposes of this agreement, substitute water shall be deemed to have been purchased during the period beginning at 8:00 A. M. on January 15 and ending at 8:00 A. M. on June 6 of such year and the price paid by the District for substitute water shall be deemed to be the average price per acre-foot paid by the District for all untreated water purchased by it for introduction into its facilities in the vicinity of Chenery Reservoir during said period without deduction for any discount, allowance or rebate that may hereafter be made or allowed by the U. S. Bureau of Reclamation in the event the District hereafter undertakes, to any extent to operate and maintain any facilities of the U. S. Bureau of Reclamation not operated and maintained by the District as of the date of this agreement.

6. Each year during the term of this agreement that the District purchases substitute water for its water deficiency entitlement, the State will pay the District an amount of money computed in accordance with the formula  $M = E(C_w + C_e - \$4.90)$  where  $M$  is the amount in dollars to be paid by the State,  $E$  is the District's water deficiency entitlement for such year determined in

the manner provided in Section 3 hereof, Cw is the amount per acre-foot paid by the District for substitute water delivered to the District as provided in Section 5 hereof, and Ce is the average amount (if any) per acre-foot paid by the District for electric energy to transport substitute water from the point of delivery thereof to the District to the District's facilities in the vicinity of Chenery Reservoir. The State shall pay said amount to the District not later than October 31 of the following year. Such payments are hereby determined to be reasonable costs of the annual maintenance and operation of the State Water Resources Development System and shall be disbursed from the California Water Resources Development Bond Fund pursuant to subsection (b) (1) of Section 12937 of the Water Code.

7. The District, in consideration of the payments by the State herein provided, releases the State from liability for any decrease in the availability to the District of usable river water at Mallard Slough caused by operation of the State Water Resources Development System during the term of this agreement.

8. The obligations of the State herein shall not be affected by any modification or discontinuance of the District's Mallard Slough pumping plant or Chenery Reservoir.

9. Nothing herein shall be deemed to be a release or waiver of any right of the District to purchase supplemental water supplies from the State with the priorities established by Water Code Section 11460, 12201 to 12204 inclusive, and 12931.

IN WITNESS WHEREOF the parties hereto have executed this agreement  
by their respective officers thereunto duly authorized on the date first above  
written.

Approved as to legal form  
and sufficiency:

STATE OF CALIFORNIA  
DEPARTMENT OF WATER RESOURCES

By P. A. Towner /s/  
Chief Counsel

By William R. Gianelli /s/  
Director

ATTEST:

CONTRA COSTA COUNTY WATER  
DISTRICT

B. M. McCloskey /s/  
Secretary

By Ralph D. Bollman /s/  
President