



National Park Service
U.S. Department of the Interior

Lassen Volcanic NP
Date: 0911 6/201 0

Categorical Exclusion Form

Project: Kings Creek Water Rights Exchange Agreement

PEPC Project Number: 32706

Project Description: **(Refer to the attached preliminary Exchange Agreement)**

ISSUE: Water Rights Resolution within Lassen Volcanic National Park

Key Points:

- * The NPS seeks resolution to a complex series of surface water diversions from within the park to several adjacent landowners in the Warner Valley Area of Lassen Volcanic National Park.
- 0 Water is diverted from park land and used by adjacent private landowners for irrigation and personal use in summer use homes. Diversion of surface water occurs at three park locations to adjacent facilities and properties.
- 0 Significant manipulation of natural resources has occurred to establish and maintain water diversion features. Water storage tanks and pipes have been constructed within the park.

Background:

- Warner Valley extends from within the southeast part of the park, beyond the park boundary, into adjacent private lands. Water flows most of the year in this valley in Kings Creek, Cold Spring, Sunflower Flat Spring and their associated tributaries.
- Mr. David Lee is owner and proprietor of the "Lee Family Property." Lee contends that he inherited a pre-1904 water right with the inheritance of the Lee Family Property. Lee predecessors maintained the water diversion for use on his property up to the present. A license for appropriation and use of water was issued to the Lee's in 1924 from the California Department of Public Works for Kings Creek. This portion of land was then annexed to the park in 1930.
- Lee makes a similar assertion that water rights for a diversion of a Juniper Creek tributary stream for areas in Warner Valley known as Sunflower Flat and Cold Springs prior to NPS annexation of the land. Water was to be used for a resort adjacent to the park that that was never developed.

Current Status:

- Mr. Lee holds a valid claim to appropriate from Kings Creek, Cold Springs, and Sunflower Flat. Current licenses show that the licensee is allowed 0.25 cfs from Sunflower Flat, and 0.37 cfs from Cold Springs. However, the NPS has no record of approving the manner in which natural resources have been manipulated to divert water to the adjacent landowners. No approval can be found for private landowners to maintain and improve access roadways, and use mechanized vehicles to access and maintain the diversions.
- Natural resource damage in the park includes 0.75 miles of active and abandoned stream channel diversions, access road improvements, invasive/exotic plant introduction, riparian plant trimming and construction of water storage tanks with associated piping. Bulldozers and all-terrain vehicles have been used in park lands to maintain water diversion features.

Resolution:

- * The National Park Service seeks to work with Lee to find a suitable remedy to natural resource degradation within the park, while allowing Lee to exercise a valid water right.

In June of 2010, a preliminary exchange agreement was entered into by Mr. Lee and the park with resolution scenarios that include several components.

- o NPS issues a special use permit for conveyance of water use, and land manipulation for Sunflower Flat and Cold Springs water and diversion conveyances. Conditions will be placed on access, land manipulation, types of tools to be used. Water extraction amounts are already regulated by the existing water license.
- o The water rights owners will quit claim their right to extract water from Kings Creek.
- o The licensee will establish a water district or association comprised of the current water users. The water district will be the named easement owner.
- o This scenario was proposed by Mr. Lee.

Mitigation(s):

Refer to **the Final Signed Exchange Agreement for specific** mitigation measures

Describe the category used to exclude action from further NEPA analysis and indicate the number of the category (see Section 3-4 of DO-12):

- A. Reissuance/renewal of permits, rights-of-way or easements not involving new environmental impacts.
- 3 Issuances, extensions, renewals, reissuances or minor modifications of permits not entailing new construction.
- A.
- 5

(See Attached Environmental Screening Form and Site Map)

On the basis of the environmental impact information in the statutory compliance file, with which I am familiar, I am categorically excluding the described project from further NEPA analysis. No exceptional circumstances or conditions in Section 3-6 apply, and the action is fully described in Section 3A of DO-12.

RECOMMENDED



Louise Johnson, Chief of Resources Management
Acting NEPA/INHPA Specialist

9-16-10

Date

SUPERINTENDENT'S APPROVAL



Darlene M. Koontz, Park Superintendent

9-20-10

Date