

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of PERMITS 2631, 12258,
10473 and 10474 Issued on APPLICATIONS
2270, 5645A, 13707, and 13708 of

U. S. BUREAU OF RECLAMATION

Petitioner

and

PERMIT 16762 Issued on APPLICATION 23416,
LICENSES 537 and 6238 Issued on PERMITS
1030 (APPLICATION 1838) and 10144
(APPLICATION 16142) of

BANK OF AMERICA AS CORPORATE CUSTODIAN
OF THE PENSION TRUST FUND FOR OPERATING
ENGINEERS (RANCHO MURIETA)

Petitioner

OMOCHUMNE-HARTNELL WATER DISTRICT

Protestant

ENVIRONMENTAL COUNCIL OF SACRAMENTO

Complainant

LICENSE 2629 Issued on PERMIT 1320
(APPLICATION 2296) of

COSUMNES IRRIGATION ASSOCIATION

Licensee

JAY SCHNEIDER

Protestant and Complainant

ORDER WR 79-13

ORDER APPROVING CHANGE PETITIONS
AND ALLOWING COMPLAINT IN PART

BY THE BOARD:

The U. S. Bureau of Reclamation, hereinafter the
Bureau, having petitioned the State Water Resources Control Board,

hereinafter the Board, for a change in place of use, for change in point of rediversion, and for change in purpose of use under Permits 2631, 12258, 10473 and 10474; Bank of America NT&SA as Corporate Custodian of the Pension Trust Fund for Operating Engineers, hereinafter Rancho Murieta, having petitioned the Board for change in distribution of storage under Permit 16762 and for change in place of use under License 6238; the Board having received complaints alleging violation of terms and conditions of Licenses 537 and 2629 and Permit 16762; protests having been received concerning the petitions for change; and a consolidated public hearing having been held on February 7, 8 and 9, 1979; petitioners, protestants and complainants having appeared and presented evidence; the evidence at the hearing having been duly considered, the Board finds as follows:

PETITIONS OF THE U. S. BUREAU OF RECLAMATION

Substance of the Bureau's Change Petitions

1. Permit 2631 authorizes direct diversion of 70 cfs and 30 cfs for the period April 15 to June 15 and diversion to storage of 15,000 afa and 7,000 afa for the period November 15 to June 15 from Camp Creek and Sly Park Creek respectively, tributary to the North Fork of the Cosumnes River. The points of diversion are (1) within NE $\frac{1}{4}$ of NW $\frac{1}{4}$, Section 15, T10N, R13E, MDB&M and (2) within NE $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 17, T10N, R13E, MDB&M. The purpose of use is irrigation and domestic. The place of use is within the boundaries of the El Dorado Irrigation District, hereinafter EID. The petition requests three changes: (1) change in purpose of use to municipal, industrial, agricultural, domestic, recreational, and preservation and enhancement of fish and wildlife;

(2) addition of a point of rediversion at a point on the Cosumnes River at Granlees Dam within Section 35, T8N, R8E, MDB&M: and (3) change of place of use to include the proposed service area of the El Dorado Irrigation District, which includes Rancho Murieta subdivision within an expanded service area. Irrigation is limited to 6,300 acres net within a gross area of 200,600 acres. The change does not involve an increase in the amount of the appropriation or season of use.

2. Permit 12258 is a permit authorizing the direct diversion of 50 cfs and 50 cfs and diversion to storage of 10,000 afa and 3,000 afa from Camp Creek and Sly Park Creek respectively, tributary to North Fork Cosumnes River, both types of diversion being for the period November 1 to July 1. The points of diversion are the same as for Permit 2631. The place of use is within areas in the EID and, pending full development of such areas, for temporary use within service areas of water distribution organizations which enter into valid contracts for the purposes of the Central Valley Project. The purposes of use are irrigation and domestic. The petition requests the same three changes requested for Permit 2631. It does not involve an increase in the amount of the appropriation or season of use.

3. Permit 10473 is a permit authorizing the direct diversion of 100 cfs and diversion to storage of 41,000 afa from Camp Creek and Sly Park Creek, tributary to North Fork Cosumnes River, for the period November 1 to July 1. The

purposes of use are irrigation and domestic and the points of diversion are the same as for Permit 2631. The place of use is the same as for Permit 12258. The petition requests the same three changes as Permits 2631 and 12258. It does not involve an increase in the amount of the appropriation or season of use.

4. Permit 10474 is a permit authorizing the direct diversion of 10 cfs and diversion to storage of 5,000 afa from Camp Creek and Sly Park Creek, tributary to the North Fork Cosumnes River, for the period November 1 to July 1. The purposes of use are municipal and industrial. The points of diversion are the same as for Permit 2631. The place of use is within the same areas described in Permit 12258. The petition requests the same three changes as the other three petitions. It does not involve an increase in the amount of the appropriation or season of use.

Project of the Petitioner:

5. The Bureau's objectives are to correlate the permit terms and to allow El Dorado Irrigation District to serve water to Rancho Murieta and others within the District permanently, rather than on a temporary basis as has been done in the past. El Dorado Irrigation District is the contract operator of Sly Park Dam and sells and distributes all of the water under the Bureau's permits. The changes will allow for projected growth within the boundaries of EID and allow for development of marginal agricultural land for home sites rather than taking good farm land out of production through residential development. No construction of works is required.

Effect Upon the Environment:

6. The El Dorado Irrigation District has prepared a negative declaration in accordance with the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) and the State Guidelines.

The El Dorado Irrigation District has filed a Notice of Determination on May 10, 1979.

The State Board has reviewed and considered the information contained in the Negative Declaration.

Protests:

7. Protests against the approval of the change petitions were filed as follows:

a. The protest of Omochumne-Hartnell Water District, hereinafter OHWD, was made on behalf of its member landowners within the District. The protest was on the grounds that the proposed changes would deplete the water supply presently available for surface diversions and groundwater recharge within OHWD. OHWD lies downstream from EID and Rancho Murieta and serves purchased supplemental water, when available, to augment the supplies of riparian users for use within the boundary of OHWD. Protestant claims a right to use water from the Cosumnes River upon its members lands under riparian, appropriative, and overlying landowner's rights.

The first use was made prior to 1920 (OHWD has not claimed pre-1914 rights) by landowners and has been continuous and increasing to date. Diversions by landowners extend from about March 15 to November 1 of each year. The entire natural flow of the Cosumnes River is diverted after about June 1 of each year. This diversion is not sufficient to meet the present water supply requirements of the landowners within OHWD. The deficiency is made up from the use of wells for irrigation when available. In addition to surface water diversions by landowners, the operation by OHWD contributes to the recharge of groundwater, both within and outside, by a series of low dams which create ponds of water during periods of low flow. OHWD's concern is that, with the addition of Rancho Murieta and the expanded area of use within EID, the flow of water in the Cosumnes River will be further depleted.

b. Immediately prior to the hearing, OHWD and the Bureau entered into a stipulation to provide means whereby the releases at Sly Park Reservoir to be re-diverted by Rancho Murieta at Granlees Dam may be measured to ensure there is not an invasion of the natural flows beyond the entitlements of the permittee. The proposed stipulation was read into the record and concurred in by both parties, who requested that the Board reserve jurisdiction for the purpose of enforcement of Paragraphs 3 and 6. Paragraph 3 provides for methods of measurement of the diversions to serve Rancho Murieta and their effect upon natural flow of the river. Paragraph 6 provides for periodic reductions of quantity of

diversion to avoid undue interference with downstream users. OHWD withdrew its protests and the agreement was signed by the parties on April 6, 1979. We find that the agreement is conceptually sound, is equitable to both parties, and may properly be incorporated in the order in the public interest in best developing, conserving, and utilizing waters from the Sly Park Project. This finding shall not be construed as a finding by the Board with respect to the rights of OHWD.

c. The Department of Fish and Game, hereinafter DFG, initially filed protests against the petitions to change Permits 10473 and 10474. The protests were concerned with assuring reservoir releases from Sly Park Dam to maintain sufficient flows for fish and wildlife. DFG's primary concern was the effect of the changes upon an agreement between the Bureau and DFG, in existence since 1953, providing for a bypass at Sly Park Dam of 1 cfs and at Camp Creek Diversion Dam of 2 cfs to maintain fish life. Following a study by the Bureau, on August 2, 1976, the Bureau, DFG, and EID executed an agreement providing for increased releases from Sly Park Dam of up to 5 cfs in a forecast spill year. The agreement provides that in no event will releases be less than the 1953 agreed flows. It is understood that all inflow to the reservoir outside the permitted diversion season must be bypassed. The agreement also requires EID to develop an irrigated one-acre area for wildlife near the Sly Park Reservoir. As a result of this agreement, DFG withdrew its protest. We find that the terms of the agreement should be incorporated in the order in the public interest in best developing, conserving, and utilizing waters from the Sly Park Project.

d. Protestant Schneider contended that the proposed modifications of the Bureau's permits will result in loss of water due to waste, unreasonable use, unreasonable method of use and unreasonable method of diversion. He further alleged that changing the purpose of use would deprive him of water and that loss of water would occur by excessive evaporation due to impoundments. Protestant concluded that approval of the petitions would not best conserve the public interest, would be contrary to law and would have an adverse environmental impact.

(1) The Protestant, who farms riparian land downstream from EID within OHWD boundaries, irrigates about 100 acres from one diversion point, 120 acres from a second and 200 acres by sub-irrigation and irrigation from a well. His conditions for protest withdrawal, which were not acceptable to the Bureau, were as follows:

"(1) Preserve protestant's rights under the present terms of the permits; (2) Require that impoundings of water are consistent with the size of the development, and, pending full development of the area, be phased in and remain proportionate with, and correspond to, actual growth as evidenced by population or building permits issued; (3) Require measuring devices to assure compliance with quantity limits of these permits (and all other permits and licenses within the area) including metering of all water diverted from the Cosumnes River; (4) Require that access to the meters be given to the Board, OHWD and Schneider Ranch; and (5) Agreement on allocation during low flows with adjacent landowners".

The Board determined that the question of allocation during low flows between adjacent landowners was not within the scope of the hearing.

(2) Water Code Sections 1701 and 1702 allow a permittee to change the point of diversion, place of use and purpose of use if the permittee establishes, and the Board finds, that the change will not operate to the injury of any legal user of the water involved. It is not necessary for us to make a determination whether there is unappropriated water available in connection with our actions on these petitions since such finding was a condition precedent to initial issuance of the permits (Water Code Section 1375), and since the record before the Board clearly demonstrates that there will be no increase in the amount of water to be appropriated. Therefore, the only issues remaining are whether the proposed changes will injure the rights and whether the public interest would be impaired by the proposed changes. We find that they will not, and that the petitions should be granted for the reasons set forth below.

(a) The record indicates that there are seven known water users together with a number of unknown diverters who take water from the source between the Sly Park Dam and the new point of rediversion. The water to be re-diverted under this petition is not natural flow. It is water which will be released from storage at Sly Park Dam for the purpose of rediversion at Granlees Dam. We find, therefore, that these users will not be injured since the water to be diverted under the modified permits, after being controlled as described above, will continue to flow from the storage at Sly Park Dam past these users and be rediverted less evaporation and seepage losses at the new point of diversion below them. Thus, diverters between Sly Park Dam and the proposed point of rediversion cannot be affected by the change.

(b) Protestant contends that the impoundments should be consistent with the size of the development and remain proportionate with actual growth evidenced by building permits. The Raymond Vail Report shows that for 1982 Low-Rainfall year the water demand is 2,351.4 acre-feet during June through November and the water supply available, not including Calero Reservoir, is less than 1,541 acre-feet. The 850 acre-feet in Clementia is not permitted for consumptive use and therefore, the permitted amount of water is not excessive. Furthermore, Rancho Murieta is required to show it has an adequate water supply before State and local agencies will approve further building within the development. Therefore, we find that it is not possible to wait for growth to occur before conditioning the water right permits. We find that the construction of Calero Reservoir is consistent with obtaining governmental permit approvals.

(c) The Schneider Ranch is within OHWD and is a beneficiary of the agreement, together with all of the other owners of irrigated land in the district. Protestant offered no evidence to show any diminution of flow past the Schneider Ranch by reason of the proposed changes. The agreement further negates Protestant's concerns, raised during the hearing, regarding measuring devices, since it provides for adequate metering and monitoring of the flows in the river, diversions and use and storage of the water in the project. The evidence shows that any water which Rancho Murieta obtains from EID from the Bureau's project will provide a backup supply to the Rancho Murieta development. Conversely, there was no evidence to support protestant's contention that if Rancho

Murieta does not receive water from Sly Park Reservoir through EID, OHWD would be able to provide more water for irrigation. The proposed changes will not adversely affect farming within OHWD. The changes will enhance the public interest since Rancho Murieta will be able to develop its 3,500 acres of marginal agricultural land for home sites which helps to preserve prime agricultural land from encroachment by expanding population.

(d) Protestant's concerns with access to the meters was resolved at the hearing, at which time OHWD and Rancho Murieta agreed that Schneider Ranch would be granted access as a representative of OHWD.

We find that the Bureau's change petitions should be approved.

PETITIONS OF RANCHO MURIETA

Substance of the Change Petitions

8. Permit 16762 authorizes direct diversion of 6 cfs, and diversion to offstream storage of 3,900 afa, both from the Cosumnes River; diversion to storage of 50 afa from an unnamed stream tributary to Cosumnes River; and diversion to storage of 100 afa from an unnamed stream tributary to Cosumnes River making a total of 4,050 acre-feet diverted to storage. The total amount of water to be taken from all sources to storage and direct diversion was not to exceed 6,368 acre-feet per water year of October 1 to September 30. Water was to be diverted to offstream storage from Cosumnes River at a maximum rate of 46 cfs and stored in Chesbro Reservoir which was planned to have a capacity of 1,600 acre-feet and at Guadalupe

Reservoir which was planned to have a capacity of 2,300 acre-feet. The seasons of diversion for both direct diversion and storage are October 1 to May 31. The points of diversion are (1) within the SW $\frac{1}{4}$ of SE $\frac{1}{4}$, Section 35, T8N, R8E, MDB&M, (2) within the NW $\frac{1}{4}$ of NW $\frac{1}{4}$, Section 35, T8N, R8E, MDB&M; and (3) within the SE $\frac{1}{4}$ of NW $\frac{1}{4}$, Section 34, T8N, R8E, MDB&M. Points (2) and (3) are also points of re-diversion for water diverted at point (1). The purpose of use is municipal, recreational, industrial, and irrigation of 500 acres. The place of use is within a gross service area of 3,500 acres in Sections 26, 27, 28, 33, 34, and 35, T8N, R8E, MDB&M and Sections 2, 3, and 4, T7N, R8E, MDB&M.

9. Petitioners seek to transfer under Permit 16762 2,300 acre-feet of storage from Guadalupe Reservoir (which will not be constructed) and 350 acre-feet from Chesbro Reservoir permitted for 1,600 acre-feet, as follows: up to 2,610 acre-feet to an enlarged Calero Reservoir, up to 850 acre-feet to Clementia Reservoir, and up to 40 acre-feet to Fairway No. 10 Lower Lake, but not to exceed a total of 2,650 acre-feet of storage in the three reservoirs. The water is to be stored and used for all permitted uses; municipal, recreational, industrial, and irrigation. Petitioner also has rights under Permit 16765 which allow storage of 1,240 afa in Clementia Reservoir from the unnamed stream on which it is located for recreational and stockwatering purposes only; and rights under License 7744 which permits storage of 49 afa in Calero Reservoir from the unnamed stream on which it is located, for stockwatering and recreational purposes only.

10. License 6238 authorizes (1) direct diversion of 1.24 cfs and diversion to storage of 45 afa in Bass Lake from Cosumnes River; and (2) diversion to storage of 45 afa from an unnamed stream tributary to Cosumnes River. Seasons of diversion are (1) May 1 to October 31 and (2) October 1 to May 1. The points of diversion are (1) within SE $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 35, T8N, R8E, MDB&M and (2) within NW $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 35, T8N, R8E, MDB&M. The purposes of use are irrigation and stockwatering and the place of use is 109 acres within Clementia Valley.

11. Petitioner proposes to transfer 74 acres of the 109 acres presently covered under the license to a place of use within the Rancho Murieta golf course north of the Cosumnes River and the remaining 35 acres to a place of use on the non-riparian portion of the golf course south of the Cosumnes River.

12. We find that all of the reservoirs are on land owned by the petitioner and within its boundaries. No other persons take water from any stream between the reservoirs. The proposed change does not involve an increase in the amount of the appropriation or a change in the seasons of diversion.

Petitioner's Projects

13. In 1968, Bank of America NT&SA, as Corporate Custodian of the Pension Trust Fund for Operating Engineers, purchased 3,500 acres of land for development as a planned community to be named Rancho Murieta. A portion of the place of use covered by License

2629, and held by Cosumnes Irrigation Association, and all of the places of use covered by License 6238 and Permit 16762 are included within the Rancho Murieta property. In addition to the foregoing rights, water rights evidenced by five licenses and three permits also belong to Bank of America and relate to Rancho Murieta lands. Additional diversions are made from Cosumnes River, downstream from Granlees Dam, under claim of riparian right as well as water diverted by the Cosumnes Irrigation Association ditch for use on Rancho Murieta lands. Rancho Murieta has developed 1,850 acre-feet of usable storage capacity and the capability of pumping from the Cosumnes River at a rate of 10 cfs. The pumped and stored water supplies the expanding community of Rancho Murieta which now includes about 200 homes, a lodge and clubhouse, a mobile home park and a training center for the operating engineers.

14. Four separate water systems are used on Rancho Murieta property: (1) domestic water supply system supplied by water diverted from the Cosumnes River at Granlees Dam under Permit 16762 and pumped into Clementia and Chesbro Reservoirs. From the reservoirs, water flows through the water treatment plant and into the domestic water system; (2) raw water system supplied by water diverted by two pumps from Cosumnes River downstream from Granlees Dam, and by two pumps in Laguna Joaquin Reservoir, which receives water from Granlees Ditch to supply 150 acres of lawn and golf course. The property is in part riparian and water use is covered by riparian claim and License 6238; (3) agricultural irrigation system, supplied by water diverted into Granlees Ditch

and gravity supplied to riparian lands between Highway 16 and the Cosumnes River. Use is covered by riparian claim, License 537 and License 2629; (4) a rock crusher plant supplied by water pumped from the Cosumnes River downstream of Granlees Dam to the crusher plant located on the south side of the river, under claim of riparian right.

Protests:

15. Protests against the change petitions were filed as follows:

a. Omochumne-Hartnell Water District, OHWD, protested the petitions. Prior to the hearing OHWD and Rancho Murieta executed a stipulation which was read into the record at the hearing on February 8, 1979. The stipulation was concurred in by both parties and the Board was requested to incorporate it into the order. The stipulation requires various measuring devices to be located within Rancho Murieta's water diversion system, and OHWD, as a result of the stipulation, withdrew its protest against the petitions. We find that the stipulation is reasonable, appropriate, and in the public interest and will not operate to injure any legal user of the water involved. The agreement should be incorporated into the decision and order of this Board. This finding shall not be construed as a finding by the Board with respect to the rights of OHWD or Rancho Murieta.

b. Protestant Schneider contends that the changes proposed for Permit 16762 initiate a new right and require a new application. His contention is that the changes would add more consumptive storage capacity thus increasing the yield and appropriations, and that they also shift 850 acre-feet of storage, which is now non-consumptive to consumptive, thus expanding a right. He contends the petition should not be approved because no unappropriated water is available. He also alleged that the change proposed for license would be a totally new appropriation because allegedly no water has been used under that license for over five years which has resulted in its forfeiture, and that the change would transfer a direct diversion right from riparian land to non-riparian land which would allow Rancho Murieta to irrigate the riparian land under claim of riparian rights. This would allegedly increase the total place of use and the amount of water diverted.

(1) Protestant alleges that License 6238 was not used for a period of five years; however, there is no substantial evidence to support this contention. Rebuttal evidence adduced by Petitioner, however, establishes that water from Cosumnes River diverted under this license has been used continuously up to 1975 for irrigation and stockwatering and at varying times thereafter.

(2) Protestant contends that transfer of place of use as proposed for License 6238 from riparian lands to non-riparian lands would increase the total place of use and the quantity of water diverted; however, there is no substantial evidence in support of this contention. Conversely, provision four of the stipulation between OHWD and Rancho Murieta provides for reduction in use of water on the new place of use to the extent that water is used on the original place of use. Petitioner adduced additional

evidence that it plans to use treated effluent for golf course irrigation when sewage flows get large enough in the future. Present flows are inadequate for this purpose. The projected flow is only 250 acre-feet in 1982, however, Petitioner projects a flow in excess of 1,000 acre-feet by 1990. This quantity of treated wastewater will supply 82% of the irrigation water needs for the two golf courses. We approve of the use of reclaimed wastewater for irrigation, which would allow water unused, but claimed under License 6238, to flow downstream to be used by others. Such use is in compliance with Sections 15550 and 15551 and Water Code and Petitioner should implement this project as soon as adequate supplies of wastewater are available.

(3) Protestant's contention that License 6238 should not be changed because there is no unappropriated water available is without merit. The sole issues to be resolved are whether the proposed changes will injure or affect the rights of any legal user of the water, and whether the public interest would be impaired by the proposed changes. No change in the amount of appropriation is proposed. Further, protestant failed to adduce any evidence to demonstrate detriment to other legal users. Evidence with respect to the potential effect upon protestant's rights disclosed that he will continue to capture irrigation runoff from the Cosumnes Irrigation Association at his lower diversion point and there is no evidence of potential diminution of water available to him.

(4) Protestant further contends that the petition to change Permit 16762 would convert non-consumptive use to consumptive use constituting an increase in storage, and thus result in reduction of water available to downstream users. We do not agree. Evidence rebuts these contentions and shows that the proposed change would decrease the potential reservoir capacity rather than increase it. The permits as they now stand authorize a total reservoir capacity of 5,189 acre-feet as follows: Guadalupe 2,300 acre-feet, Chesbro 1,600 acre-feet, Clementia 1,240 acre-feet, and Calero 49 acre-feet. The petition would reduce the total reservoir capacity to 4,750 acre-feet as follows: Chesbro 1,250 acre-feet, Clementia 850 acre-feet, Calero 2,610 acre-feet and Fairway No. 10 lower lake 40 acre-feet. The proposed transfer of 2,300 acre-feet of storage from Guadalupe Reservoir and 350 acre-feet from Chesbro Reservoir (leaving 1,250 acre-feet at Chesbro) to an enlarged Calero Reservoir, and to Clementia Reservoir, does not increase the total of 2,650 acre-feet of storage allowed under permit. It is merely a redistribution of storage already allowable under the permit, and therefore does not change or convert non-consumptive use to consumptive use. Protestant has failed to support his contention.

16. The proposed changes in Permit 16762 and License 6238 will not operate to injure the rights of any legal user of the water involved.

EFFECT UPON THE ENVIRONMENT

17. The County of Sacramento has prepared a final environmental impact report in accordance with the California Environmental Quality Act (Public Resources Code, Section 21000 et seq.) and the State Guidelines.

18. The loss of archeological resources has been identified as the only significant impact created by the project. Development and implementation of a data recovery program is proposed to reduce this impact to a less than significant level.

19. The State Board has reviewed and considered the information contained in the EIR prior to the approval of the project.

COMPLAINTS OF ENTITLEMENT TERM VIOLATIONS

20. Complainant Schneider submitted complaints on April 27, 1978, relative to License 537 (Application 1838), License 2629 (Application 2296) and Permit 16762 (Application 23416). Complainant alleges that License 537 should be revoked for non-use, that License 2629 should be revoked in part because of limited use, that violations of the terms of Permit 16762 have occurred, and that use under the aforementioned licenses and permit has injured his prior vested rights. OHWD joined in the complaints concerning Licenses 537 and 2629. The Environmental Council of Sacramento, hereinafter ECOS, joined in the complaint regarding alleged violations of Condition 23 of Permit 16762. The staff conducted an investigation of the complaints and a report dated January 3, 1979 was introduced in evidence at the

hearing. Complainant Schneider stipulated concurrence with the conclusions of the report.

Substance of License 537

21. (a) License 537 is a license authorizing Rancho Murieta's direct diversion of 2 cfs from Cosumnes River for the period March 15 to September 1. The purpose of use is irrigation and the point of diversion is within SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 35, T8N, R8E, MDB&M. The place of use is 160 acres generally described as the first area developed by Rancho Murieta south of Highway 16. It comprises, in part, the main gate area, mobile home park, the training center, and areas around the airport.

(b) Complainant Schneider alleges that there has been no use of water on the place of use for over eight years. A staff investigation prior to the hearing disclosed that there was continuous use but that there was a substantial reduction in the area irrigated under the license because of the development of the Laguna Joaquin Reservoir, the main gate area, mobile home park, airport and the training center, all at the Rancho Murieta development. Testimony by witnesses for Rancho Murieta confirmed the staff report and testified that four and one-half acres north of the highway, five acres around the training center, and 13 acres within the mobile home park, making a total of 22 $\frac{1}{2}$ acres have been irrigated during recent years. The complainant accepted this figure and at hearing Rancho Murieta agreed to reduction of the license on a pro-rata basis. We find therefore that the license should be reduced from 160 to 22 $\frac{1}{2}$ acres (irrigated land), reducing the amount of water, the right to the use of which is authorized under License 537 to 0.28 cfs.

Substance of Permit 16762

22. The substance of Permit 16762 is identified in Paragraph 8 above. Complainant Schneider is an adjacent downstream user. He alleges that six separate conditions of Permit 16762 have been violated and that these violations affect not only him, but OHWD and the general public as well. OHWD has withdrawn its joinder to the complaints. However, ECOS has joined with respect to the complaint of violation of Condition 23 of the permit. We deal separately with each complaint.

a. Condition 11 provides as follows:

"Permittee shall allow representatives of the State Water Resources Control Board, employees of Omochumne-Hartness Water District, 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."

(1) Complainant alleges that he has been denied access to the property by Rancho Murieta and asks that the Board specifically include Schneider Ranch, or its representatives, as authorized persons to be granted access to Rancho Murieta. In rebuttal Rancho Murieta points to the fact that the Rancho Murieta properties is a private development patrolled by security guards and that access is restricted. Both Rancho Murieta and OHWD stipulated, however, that if Schneider Ranch was designated by OHWD as its representative, access to the project will be granted. Complainant, although not satisfied with the proposal, did not reject it.

(2) Although the Board has jurisdiction to designate in its orders specific persons or entities to be granted access for the purpose of inspection, we do not find that it is necessary to order that Schneider Ranch be granted additional

access rights. While we agree that adjacent landowners have an interest in the activities upon surrounding lands which may affect them and have made such provisions from time to time, we do not agree that it is reasonable or proper in the instant case. The purpose of such terms is to ensure that those parties who have a direct interest in the project, as well as the Board, have reasonable access to determine compliance with terms of the permit. Expansion of access terms to include additional parties is unduly onerous upon the permittee and would serve no useful purpose. OHWD has stated its agreement to consider Schneider Ranch as its representative. We, therefore, decline to amend the condition as requested.

b. Condition 17 provides as follows:

"After the initial filling of Laguna Joaquin, Peralta, Clementia, Bass, Black Bass, and Calero Reservoirs, permittee's rights under this permit, as it pertains to these reservoirs, extends only to water necessary to keep these reservoirs full by replacing water beneficially used and water lost by evaporation and seepage, and to refill if emptied for necessary maintenance or repair. Such right shall be exercised only during the authorized season."

(1) Complainant alleges that water was diverted into Laguna Joaquin Reservoir outside the diversion season and that such use is wasteful and unreasonable. Permittee contended that this water was taken under riparian rights and under License 2629 and that for a time it was merely routed through Laguna Joaquin Reservoir en route to the lands to be irrigated. Also, no evidence was introduced to support complainant's contention of waste and unreasonable use.

c. Conditions 18 and 21 provide as follows:

"18. For the protection and preservation of fish life, diversions under this permit from the Cosumnes River shall be subject to the following terms and conditions:

- A. No water shall be diverted when the flow is less than 70 cubic feet per second.
- B. Only up to 6 cubic feet per second shall be diverted when the flow is between 70 and 175 cubic feet per second (but such diversion shall not reduce the flow below 70 cubic feet per second).
- C. Only those flows in excess of 175 cubic feet per second shall be diverted at all other times, except in dry years, as follows:
 - (1) If on February 1, the total amount that could have been diverted under this permit under the foregoing schedule is less than 400 acre-feet, then permittee may, during February, divert the flows in excess of 70 cubic feet per second, up to a maximum of 46 cubic feet per second.
 - (2) If on March 1, the total amount that could have been diverted under the foregoing schedule is less than 2,000 acre-feet, then permittee may, during March, divert the flows in excess of 70 cubic feet per second up to a maximum of 46 cubic feet per second.
 - (3) If on April 1, the total amount that could have been diverted under the foregoing schedule is less than 4,400 acre-feet, then permittee may, during the remainder of the diversion season (April 1 to May 31), divert the flows in excess of 70 cubic feet per second up to a maximum of 46 cubic feet per second.
- D. For the purpose of providing maximum continuous downstream fish migration flows as early as possible in the spring months during years when one of the schedules as set forth in paragraphs c(1), c(2), or c(3) above is commenced, the permittee shall continue such diversion schedule (set forth under c(1), c(2), or c(3) respectively) in order to completely fill Guadalupe and Chesbro storage reservoirs as soon as possible, and shall not revert to the diversion schedule under b and c above, except for direct diversion to supply its direct diversion requirements during the remainder of the diversion season not to exceed 6 cubic feet per second. The total seasonal diversion shall not exceed 6,368 acre-feet.
- E. All measurements of flow shall be determined at the U. S. Geological Survey Gaging Station "Cosumnes River at Michigan Bar".

"21. Permittee shall divert no water during the period November 1 to June 1 of each season except during such time as there is a continuous visible surface flow in the bed of Cosumnes River from permittee's point of diversion to the gaging station at Highway 99 known as 'Cosumnes River at McConnell'."

(2) Complainant alleges that during water years 1975-76 and 1976-77 water was diverted from the Cosumnes River during periods when flows were not above the required 70 cfs minimum fish bypass amount at the U.S.G.S. gage at Michigan Bar (Condition #18) and surface flows were not visible at the U.S.G.S. gage at McConnell (Condition #21).

(3) Evidence, including the staff investigation report, confirmed complainant's contentions and this evidence was not refuted by permittee. Permittee's response was that the years in question were of unprecedented drought; and that various landowners downstream from the permittee, within OHWD, had erected dams or other obstructions across the river channel at various locations to artificially induce percolation to the underground. The effect of those dams according to permittee, was to eliminate a continuous stream through much of the channel which would make a live flow at McConnell impossible as well as prevent fish passage through or along the channel.

Permittee further responded by saying its diversions outside the authorized season were done under claims of riparian and prescriptive rights. Permittee was not allowed at the hearing to present its case on prescription since it was outside the scope of the hearing. It is found that the permittee has reached agreement with OHWD to install new stations and measuring devices, and permittee shall be required to submit reports to the Board. OHWD shall install further such dams or barriers only after the stream dries up at McConnell gage. Furthermore, the permit will be subject to revocation should violation of Conditions 18 and 21 occur again.

d. Condition 22 provides as follows:

"Permittee shall install and maintain measuring devices acceptable to the State Water Resources Control Board to measure accurately the quantity of water diverted from Cosumnes River."

Complainant alleges that the necessary measuring devices have not been installed. Preliminary staff investigations revealed that some gages were in operation; however, later inspections disclosed deficiencies which corroborated complainant's allegations. We believe that these deficiencies will be corrected when the agreement between OHWD and Rancho Murieta is implemented.

e. Condition 23 provides as follows:

"No water shall be used under this permit until the permittee has, through grant of easement or dedication or other means satisfactory to the County of Sacramento, provided for access by the general public to Cosumnes River through the proposed place of use. Such access shall be a minimum of 50 feet wide on each bank of the river, or such width as may be in conformity with the parkway plan of the County of Sacramento; provided, however, that reasonable public access along the river is maintained."

(1) Complainant Schneider alleges that the permittee violated the condition by using water under the permit before providing public access to the river as required by this condition. Complainant further argued at the hearing that the terms of the agreement between the County of Sacramento and permittee, which will be discussed more fully below, imposes an inequitable burden upon his properties which are situated across the river by creating a potentially more attractive recreational area near his properties than is created upstream and thus attracting more persons who may be expected to trespass upon his properties.

(2) Permittee does not deny that it has used water from the river under Permit 16762 prior to providing the

necessary public access. Permittee's response is that since issuance of the Permit it has engaged in good faith efforts to comply. Evidence of compliance offered by permittee was the execution and adoption of an agreement on December 27, 1978, between the County of Sacramento and Rancho Murieta, after prolonged negotiations, wherein permittee agrees to convey by grant deed 136 acres described as "Park Property" adjacent to the river downstream from the Highway bridge on the north side of the river. The agreement also provides for a grant deed of easement in perpetuity for public access to a strip of land varying in width from 50 to 400 feet up stream of the bridge on the south bank of the river.

(3) The terms of the agreement provide for assuring general public access to both the 136 acres of park property and the easement area. Although the agreement does not have specific terms for future use, it provides for implementation of a park and recreation facilities in the 136 acres and the dedication of the easement for park purposes with a general plan design to retain the present undeveloped condition of the easement portion. The agreement further provides that the County will deed to the permittee the old steel bridge which crosses the river. Additional terms provide for delivery and recordation of the deeds on July 2, 1979.

(4) Complainant Schneider's witness evidenced concern over the proposed grants alleging conflict between the public access rights granted and the language of Condition 23. Complainant further alleged that permittee has done nothing

further toward implementing the mandate of Condition 23 than enter into the agreement with the County. This allegation was rebutted by permittee who alleged that it allows persons into the easement area, and that upon request by interested parties, tours of the area will be conducted.

(5) We are aware of the nature and use of permittee's lands within its project and its need to afford security for the residents and avoid trespass and vandalism on the private properties located therein. We have reviewed the evidence which has been presented, not only during this hearing, but also during past hearings, as well as litigation involving this matter. We find that if access is permitted to the general public to the south bank of the river upstream of the bridge and to the north bank of the river downstream from the bridge the spirit and intent of Condition 23 will be met. The agreement does provide for implementation of recreational areas with access to be provided to the general public.

(6) The County of Sacramento adduced evidence to the effect that although a general plan for future use of the park and recreational areas has not been developed, the County contemplates providing for adequate, satisfactory, and reasonable access to the general public to the Cosumnes River within the areas concerned. The County of Sacramento's Board of Supervisors has evidenced its understanding of the nature of the proposed use by making such a finding in Paragraph VII, subparagraph 1 of the above described agreement. The agreement declares that the

resulting parkway is in conformity with the County's Cosumnes River Parkway Plan.

(7) Witnesses for ECOS questioned whether the agreement does in fact provide access as contemplated by Condition 23. ECOS witnesses further questioned whether the Board would require specific recreational or developmental installations and inquired as to the responsibility for assuring that access would in fact be made available to the general public.

(8) We have heretofore found it is in the public interest that access to the general public be maintained along the Cosumnes River. We now find that the permittee has complied with Condition 23 by removing the restrictions against access on both parcels of property referred to herein and by dedicating and placing them within the County of Sacramento's Parkway System in a manner satisfactory to the County. So long as permittee takes no unreasonable action to impede or prevent future access to those areas, permittee will remain in compliance with Condition 23.

(9) We conclude that permittee has satisfactorily complied with the terms of Condition 23 in that it has provided for access to the general public to the Cosumnes River through the grants of easement and dedication to the County of Sacramento, and that it is now the responsibility of the County to implement the plan. We are in sympathy with the complainant's concerns that expanded use of the riverfront property adjacent to his ranch may create a burden by allowing trespassers upon his property; however, should these concerns be realized complainant has adequate remedies which are beyond the jurisdiction of

this Board. We believe that we have exercised the fullest extent of our jurisdiction and should not expand our order further regarding access to the river.

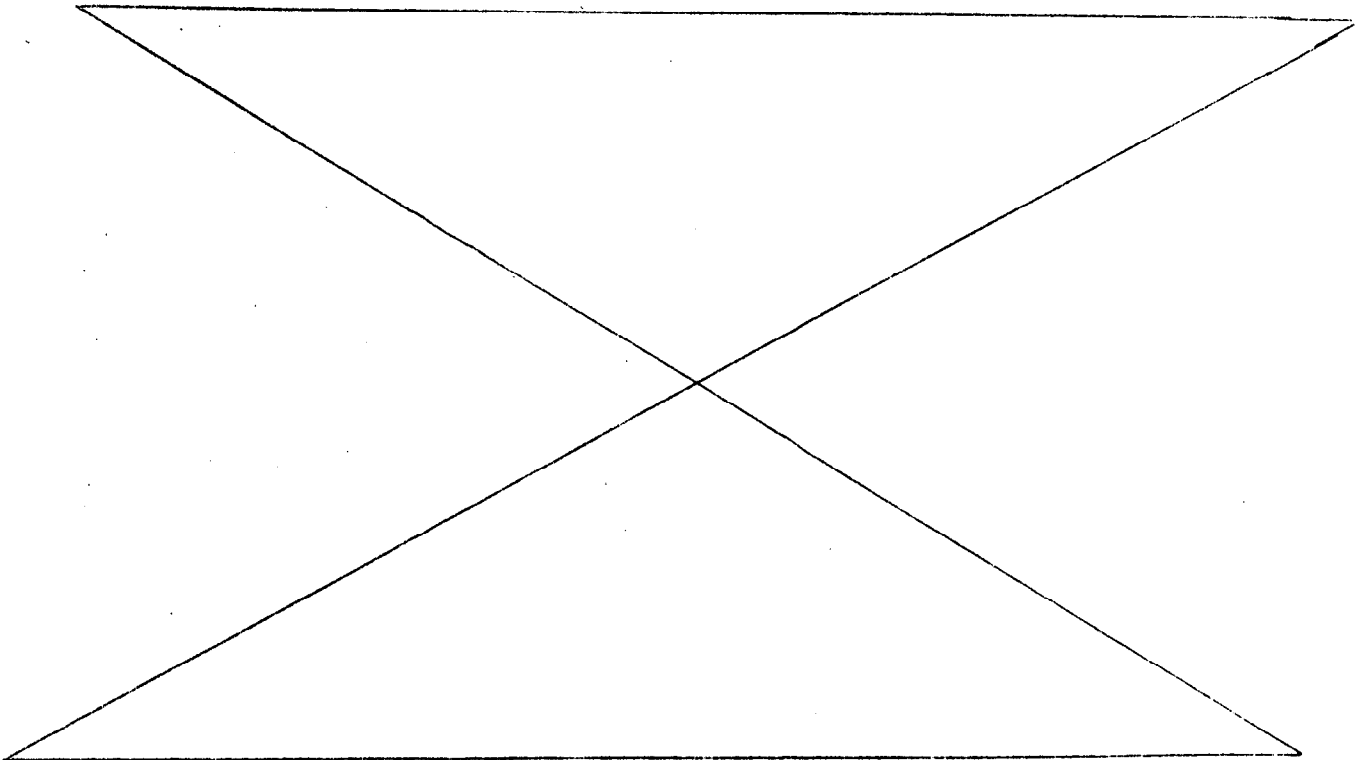
23. Complainant requested that Rancho Murieta, where possible, divert local runoff to storage rather than divert water from the Cosumnes River to offstream storage. Although this will put an extra burden on Rancho Murieta, it will reduce the demand on the Cosumnes River. We find that it is in the public interest in best developing, conserving and utilizing waters of the Cosumnes, and therefore approve complainant's request.

Substance of License 2629

24. License 2629 is a license authorizing the Cosumnes Irrigation Association's direct diversion of 12.5 cfs from the Cosumnes River for the period March 1 to July 10. The point of diversion is within SW $\frac{1}{4}$ of SE $\frac{1}{4}$, Section 35, T8N, R8E, MDB&M and the place of use is described generally as all of the area within the Cosumnes Irrigation Association place of use. It consists in part of the agricultural area irrigated by Rancho Murieta and Maughn and Carlson and comprises a total of 893.9 acres.

a. Complainant alleges that approximately 50 per cent of the Cosumnes Irrigation Association's place of use has not been irrigated for over eight years.

b. Evidence reveals that a total of 471 acres have been irrigated within recent years out of a specified place of use of 893.9 acres. This has been due to development and changes of ownership which reduced the effective area to a total of 569 acres. This was not refuted by the licensee and ordinarily a reduction in the amount of water should be made. Evidence was received at the hearing that because of the soil type, a greater duty of water, over the normal amount, is required to irrigate the place of use. The license was issued on February 21, 1944, on the basis of a "reasonable" duty allotment rather than on the basis of a measured quantity put to beneficial use. No records were available or kept to show



what it has actually been. The stipulated agreement between OHWD and Rancho Murieta, referred to above, requires that measuring devices be put on the Cosumnes Irrigation Association ditch. Once diversion records have been made and established for this place of use, an inspection should be made to determine if the licensed amount should be reduced and what annual acre-foot limitation should apply. Permittee asserts that although the number of acres irrigated has been reduced, the net area within the place of use should not be reduced, thus allowing the license to move its irrigation around within the place of use. Pursuant to Section 674, Title 23 California Administrative Code, this technique is allowable and the place of use should therefore be reduced only by the acreage falling outside Rancho Murieta and Carlson and Maughn's boundary lines, and further, by the amount already taken out of production because of development which leaves a net of 471 acres within a gross of 569 acres.

25. From the foregoing findings the Board concludes that the petitions of the U. S. Bureau of Reclamation to change Permits 2631, 12258, 10473 and 10474; the petitions of Rancho Murieta to change Permit 16762 and License 6238 should be approved and that change orders should be issued to the licensee and permittee subject to the limitations and conditions set forth in the order following; that the complaint of Jay Schneider be dismissed subject to the findings herein. That all of the permits need to be updated to include standard terms and conditions pursuant to Section 761, Title 23, California Administrative Code.

ORDER

U.S. BUREAU OF RECLAMATION

NOW THEREFORE, IT IS HEREBY ORDERED that the petitions to change Permits 2631, 12258, 10473 and 10474 are granted and Permits 2631, 12258, 10473 and 10474 are amended as follows:

1. The purpose of use of Permits 2631, 12258, 10473 and 10474 shall be amended to read: municipal, industrial, agricultural, domestic, recreational, and preservation and enhancement of Fish and Wildlife.

2. A point of rediversion shall be added to Permits 2631, 12258, 10473 and 10474 to include: a point of rediversion on the Cosumnes River (Granlees Dam) within Section 35, T8N, R8E, MDB&M.

3. The place where water is put to beneficial use in Permits 2631, 12258, 10473 and 10474 shall be amended to read:

The place of use shall include the "proposed service area of the El Dorado Irrigation District within Townships 9, 10, 11N, Ranges 8, 9, 10, 11, 12, and 13E, T8N, R10E, MDB&M, including Rancho Marieta within Township 7 and 8N, R8E, MDB&M. The net acreage irrigated shall not exceed 6,300 acres net within the gross area of 200,600 acres as shown on map on file with the State Water Resources Control Board."

4. A new Permit Term of Permit 2631, a new Permit Term of Permit 12258, a new Permit Term of Permit 10473 and a new Permit Term of Permit 10474 are added as follows:

"a. Bureau and District shall at all times bypass at Sly Park Dam a minimum of 1 cfs, or the natural flow of Sly Park Creek, whichever is less, and at all times bypass at Camp Creek Diversion Dam a minimum of 2 cfs or the natural flow, whichever is less, to maintain fish life;

b. Bureau, considering hydrologic conditions and water use requirements, shall estimate in April of each year the storage that will exist in Sly Park Reservoir on the following September 30 and revise such estimate as often as hydrologic conditions and water use requirements warrant such revision. If such estimate or re-estimate exceeds 23,800 acre-feet, Bureau shall so advise Department of Fish and Game.

c. If the estimated September 30 storage exceeds 23,800 acre-feet, Bureau and District shall release to Sly Park Creek up to 5 cfs, including the 1 cfs provided for in a. above, of such excess on a constant-flow pattern during the period May through October or during such portion of said period as remains after revisions of the Bureau's estimate.

d. Bureau and EID shall, if requested by DFG release said excess on a pattern other than a constant-flow pattern.

e. EID will develop an irrigated 1-acre area for wildlife only on the northerly side of Sly Park Reservoir. Details of implementation will be arranged between EID and DFG."

5. A new Permit Term shall be added to Permits 2631, 12258, 10473, and 10474 as follows:

"This permit is subject to the agreement dated April 6, 1979 between permittee and Omochumne Hartnell Water District Water District, to the extent such agreement covers matters within the Board's jurisdiction."

6. A new Permit Term of Permit 2631, a new Permit Term of Permit 12258, a new Permit Term of Permit 10473 and a new Permit Term of Permit 10474 are added as follows:

"This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose."

7. A new Permit Term of Permit 2631, and a new Permit Term of Permit 12258 are added as follows:

"The total amount of water to be appropriated under permits issued pursuant to Applications 13707, 13708, 2270 and 5645A for the benefit of the Sly Park project shall not exceed 110 cubic feet per second diverted for direct application to beneficial use and 41,000 acre-feet per annum diverted to or accumulated in storage for later application to beneficial use."

"The total amount of water to be taken from the sources for all uses under Permits 2631, 12258, 10473 and 10474 shall not exceed a combined total of 93,708 acre-feet per water year of October 1 to September 30."

8. Permit Term 8 of Permits 10473 and 10474 is amended to add as follows:

"The total amount of water to be taken from the sources for all uses under Permits 2631, 12258, 10473 and 10474 shall not exceed a combined total of 93,708 acre feet per water year of October 1 to September 30."

9. A new Permit Term of Permit 2631, a new Permit Term of Permit 12258, a new Permit Term of Permit 10473, and a new Permit Term of Permit 10474 are added as follows:

"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."

10. A new Permit Term of Permit 2631 shall be added; Permit Term 6 of Permit 12258, Permit Term 7 of Permit 10473, and Permit Term 7 of Permit 10474 shall be amended as follows:

"Pursuant to California Water Code Section 100 and 275, 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 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 minimizing waste of water and to meeting the reasonable water requirements of permittee without draft on the source. Permittee may be required to implement such programs as (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 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 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.

11. A new Permit Term of Permit 2631, a new Permit Term of Permit 12258, a new Permit Term of Permit 10473 and a new Permit Term of Permit 10474 shall be added as follows:

"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."

12. A new permit term of Permit 12258 shall be added as follows:

"Before making any change in the project determined by the State Water Resources Control Board to be substantial, permittee shall submit such change to the Board for its approval in compliance with Water Code Section 10504.5(A).

13. A new permit term shall be added to Permits 2631, 12258, 10473 and 10474 as follows:

"a. Permittee, using existing measuring devices for that purpose, shall maintain daily records of diversions from Camp Creek to Sly Park Reservoir and of changes in storage in Sly Park Reservoir and releases into the North Fork Cosumnes River for delivery to Rancho Murieta, satisfactory to the State Water Resources Control Board, to allow a reasonably accurate determination of the amount of stored water released from Sly Park Reservoir into the North Fork Cosumnes River for delivery to Rancho Murieta, as distinguished from the natural flow of the stream.

b. Measuring devices are installed at the point of redirection of stored water to Rancho Murieta from the Cosumnes River, and daily records shall be maintained of diversions at said point, which records shall be available to the State Water Resources Control Board and to Omochumnes-Hartnell Water District. The location of the redirection shall be identified as the forebay of the Rancho Murieta pumping plants located between Granlees Dam and the Cosumnes Irrigation Association ditch."

RANCHO MURIETA

IT IS FURTHER HEREBY ORDERED that the petitions to change Permit 16762 and License 6238 are granted and Permit 16762 and License 6238 are amended as follows:

1. Permit Term 5 of Permit 16762 is amended as follows:

"The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed (a) 6 cubic feet per second by direct diversion from the Cosumnes River to be diverted from November 1 of each year to May 31 of the succeeding year, and (b) 4,050 acre-feet per annum by storage to be collected from November 1 of each year to May 31 of the succeeding year as follows:

1. 3,900 acre-feet per annum from the Cosumnes River to be stored as follows:

- (A) 1,250 acre-feet per annum in Chesbro Reservoir,
- (B) 2,610 acre-feet per annum in Calero Reservoir,
- (C) 850 acre-feet per annum in Clementia Reservoir, and
- (D) 40 acre-feet per annum in Fairway No. 10 Lower Lake.

The combined amount under B, C and D shall not exceed a total of 2,650 acre-feet.

2. 50 acre-feet per annum from an unnamed stream to be stored in Chesbro Reservoir.

3. 100 acre-feet per annum from an unnamed stream to be stored in Calero Reservoir.

The maximum rate of diversion from the Cosumnes River to offstream storage shall not exceed 46 cubic feet per second. The equivalent of the continuous flow allowance by direct diversion for any 7-day period may be diverted in a shorter time if there is no interference with vested rights. The total amount of water to be taken from the source shall not exceed 6,368 acre-feet per water year of October 1 to September 30.

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose."

2. Permit Term 10 of Permit 16762 is amended to read as follows:

"Pursuant to California Water Code Sections 100 and 275, 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 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 minimizing waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement such programs as (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."

3. A new permit term of Permit 16762 shall be added as follows:

"When the flow of treated wastewater reaches 424 acre-feet per annum, permittee shall implement the use of such wastewater for irrigation purposes in lieu of water from other sources as provided in Sections 15550 and 15551 of the Water Code. Such use shall be reported on the annual progress reports filed with the Board."

4. Permit Term 18, subparagraph "D" of Permit 16762 is amended as follows:

"For the purpose of providing maximum continuous downstream fish migration flows as early as possible in the spring months during years when one of the schedules as set forth in paragraphs c(1), c(2), or c(3) above is commenced, the permittee shall continue such diversion schedule (set forth under c(1), c(2), or c(3) respectively) in order to complete the diversion to storage under the permit as soon as possible, and shall not revert to the diversion schedule under B and C above, except for direct diversion to supply its direct diversion requirements during the remainder of the diversion season not to exceed 6 cubic feet per second. The total seasonal diversion shall not exceed 6,368 acre-feet."

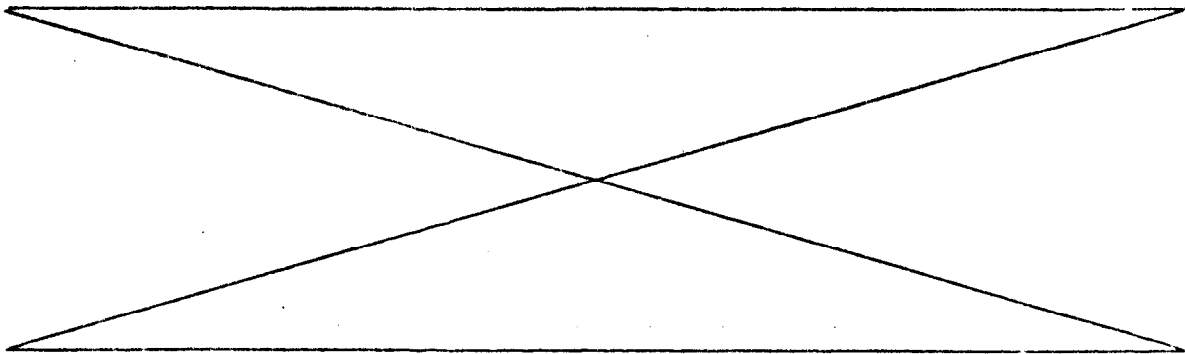
5. A new permit term of Permit 16762 shall be added as follows:

"This permit is subject to the agreement dated March 26, 1979 between permittee and Omochumne-Hartnell Water District, to the extent such agreement covers matters within the Board's jurisdiction."

6. A new permit term of Permit 16762 shall be added as follows:

"Suitable metering and recording devices shall be installed, operated and maintained in good working order by Rancho Murieta at the following locations:

- a. On the discharge line of each pumping station located within the forebay of the CIA diversion Canal headworks and which divert water to off-stream storage pursuant to Permit 16762. A suitable recording device shall also be installed which will provide a continuous record on a strip or circular chart of rates and time of diversion for each pump.
- b. At the headworks of the CIA canal a continuous stage recorder to record diversions into the canal. Direct measurements to be made at least bimonthly to provide an accurate stage-discharge relationship. The recorder may be removed during periods of high water.



- c. On all other pumping facilities which divert water from the Cosumnes River including but not limited to those facilities commonly referred to as the:
- i. Bass Lake Pump
 - ii. Old Bridge Pump
 - iii. Rock Plant Pump

Totalizing meters will be deemed adequate for the foregoing and for (d) and (e).

- d. A meter shall be installed in the Cosumnes Irrigation Association Canal downstream from the Laguna Joaquin Reservoir.
- e. At all points where water is withdrawn from storage for beneficial use, except from Fairway No. 10 Upper Lake. Water withdrawn for transfer to another reservoir will also be measured except for transfers among Calero, Clementia and Chesbro or from those reservoirs to the Treatment Plant.
- f. For purposes of the measurements described above, hour meters of KWH consumption shall not be considered adequate unless otherwise agreed to.
- g. At Calero, Chesbro and Clementia Reservoirs changes in storage will be measured at least monthly, and this information, plus any additional measurements actually made regarding changes of storage, furnished to the Board upon request."
7. A new permit term shall be added to Permit 16762 as follows:

"Permittee shall devise a method or plan satisfactory to the State Water Resources Control Board to obtain current stream flow data at the U. S. Geological Survey gaging station at Michigan Bar. Such plan shall be submitted to the Chief of the Division of Water Rights within 60 days."

8. A new permit term to Permit 16762 shall be added as follows:

"Permittee shall collect local runoff to storage in lieu of diverting water from the Cosumnes River to the extent local runoff is available, and the right under Permit 16762 be reduced by the total amount of local runoff, including the amount allowed to spill up to the amount authorized under Permit 16762 for storage."

9. License 6238 is amended as follows: The place where water is put to beneficial use in License 6238 shall be amended to read:

"The place of use of the 109 acres permitted by the license shall be as follows:

4.2 acres within SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 35
5.0 acres within SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 34
8.0 acres within SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 34
7.3 acres within SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 34
9.7 acres within NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 34
12.1 acres within SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 34
12.2 acres within SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 34
3.9 acres within NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 34
11.2 acres within NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 35
73.6 total

all being within T8N, R8E, MDB&M.

The remaining 35 acres place of use is described as follows:

1.3 acres within SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 2
7.9 acres within NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 3
6.2 acres within NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 3
6.0 acres within NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 2
8.5 acres within NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 2
0.1 acres within NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 2
5.0 acres within SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 3
35.0 total

all being within T7N, R8E, MDB&M."

IT IS FURTHER HEREBY ORDERED, that License 537 which authorizes direct diversion of 2 cfs from the Cosumnes River by Rancho Murieta for the period March 15 to September 1 be amended as follows:

1. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 0.28 cfs by direct diversion from March 15 to September 1 of each year.

2. The place where water is put to beneficial use in License 537 shall be amended to read: The place of use shall be as follows:

4 $\frac{1}{2}$ acres within SE $\frac{1}{4}$ of SE $\frac{1}{4}$, Section 33 T8N, R8E, MDB&M
18 acres within NE $\frac{1}{4}$ of Section 4, T7N, R8E, MDB&M

3. A new license term for License 537 is added as follows:

"This permit is subject to the agreement dated March 26, 1979 between permittee and Omochumne-Hartnell Water District, to the extent such agreement covers matters within the Board's jurisdiction."

IT IS FURTHER HEREBY ORDERED that License 2629 issued to the Cosumnes Irrigation Association be amended as follows:

1. The place where water is put to beneficial use in License 2629 shall be amended to read:

"The place of use shall be a net of 471 acres within a gross of 569 acres as follows:

- 40 acres within NW 1/4 of NW 1/4, Section 4,
- 23 acres within NE 1/4 of NW 1/4, Section 4,
- 40 acres within SW 1/4 of NW 1/4, Section 4,
- 40 acres within SE 1/4 of NW 1/4, Section 4,
- 40 acres within NW 1/4 of SW 1/4, Section 4,
- 35 acres within SW 1/4 of SW 1/4, Section 4,
- 33 acres within NE 1/4 of SW 1/4, Section 4,
- 2 acres within SE 1/4 of SW 1/4, Section 4,
- 9 acres within NW 1/4 of NE 1/4, Section 5,
- 35 acres within NE 1/4 of NW 1/4, Section 5,
- 40 acres within SW 1/4 of NE 1/4, Section 5,
- 40 acres within SE 1/4 of NE 1/4, Section 5,
- 40 acres within NW 1/4 of SE 1/4, Section 5,
- 40 acres within NE 1/4 of SE 1/4, Section 5,
- 10 acres within SW 1/4 of SE 1/4, Section 5,
- 26 acres within SE 1/4 of SE 1/4, Section 5,
- 21 acres within SE 1/4 of NW 1/4, Section 5,
- 40 acres within NE 1/4 of SW 1/4, Section 5,
- 11 acres within NW 1/4 of SW 1/4, Section 5,
- 4 acres within SW 1/4 of SW 1/4, Section 5,

569 Total acres

all being within T7N, R8E, MDB&M."

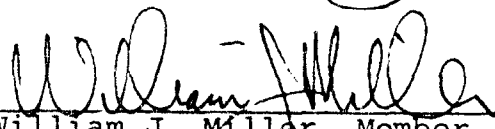
IT IS FURTHER HEREBY ORDERED that amended permits shall be prepared in the current form incorporating all of the foregoing provisions, and updating standard terms and conditions.

IT IS FURTHER HEREBY ORDERED that the complaint by Jay Schneider, having been resolved by the findings and order herein, be and is hereby dismissed.

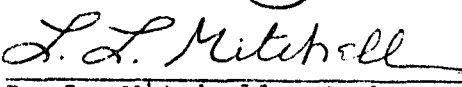
Dated: JUN 7 1979




W. Don Maughan, Chairman



William J. Miller, Member



L. L. Mitchell, Member



Carla M. Bard, Member

12-14

