

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of

Application 22039 by THE NEWHALL
LAND AND FARMING COMPANY,

Application 22061 by
PARADISE IRRIGATION DISTRICT,

Application 22321 by
GORRILL LAND COMPANY,

Applications 22333 and 22499 by
C. WILLIAM JOHNSON and MARY
SUZANNE FORAKER,

Application 22534 by
GARRISON PATRICK,

Application 22564 by
LOUIS C. CAMENZIND, JR.,

and Application 22653 by
EMMETT WARREN SKINNER, JR.,

Applicants

DELTA WATER USERS ASSOCIATION,
et al.,

Protestants

Decision 1344

DECISION APPROVING APPLICATIONS

Applications have been filed for permits to appropriate water, as follows: Application 22039 by the Newhall Land and Farming Company (Newhall), Application 22061 by Paradise Irrigation District (Paradise), Application 22321 by Gorrill Land Company (Gorrill), Applications 22333 and 22499 by C. William Johnson and Mary Suzanne Foraker, Application 22534 by

Garrison Patrick, Application 22564 by Louis C. Camenzind, Jr., and Application 22653 by Emmett Warren Skinner, Jr. Protests having been received, a public hearing was held before the State Water Resources Control Board on December 12, 13 and 14, 1967, at which hearing applicants and protestants appeared and presented evidence. The evidence received at the hearing having been duly considered, the Board finds:

1. The substance of the applications is as follows:

Application 22039

Applicant: The Newhall Land and Farming Company

Date filed: February 5, 1965
Source: Butte Creek
Tributary to: Butte Slough thence Sacramento River
Quantity: 150 cubic feet per second (cfs)
Season: March 15 to June 15
Purpose: Irrigation use
Point of Diversion: Within the NE $\frac{1}{4}$ of NW $\frac{1}{4}$, Section 5,
T20N, R2E, MDB&M
Point of redirection: Within the NE $\frac{1}{4}$ of NE $\frac{1}{4}$, Section 4,
T20N, R2E
Place of use: Irrigation of 4,250 acres net within a
gross area of 4,460 acres being within projected
Sections 2, 3, 4, 5, 7, 8, 9, 10, 15, 16, 17, 20 and
21, T20N, R2E; and projected Sections 32, 33, 34 and
35, T21N, R2E

Application 22061

Applicant: Paradise Irrigation District

Date filed: February 25, 1965
Source: Little Butte Creek
Tributary to: Butte Creek thence Butte Slough thence
Sacramento River
Quantity: 12,000 acre-feet per annum (afa)
Season: October 1 to June 30
Purposes: Irrigation, domestic, municipal, industrial
and recreational uses
Point of diversion: Within the SW $\frac{1}{4}$ of NE $\frac{1}{4}$, Section 36,
T23N, R3E

Place of use: Incidental uses, irrigation of 650 acres and municipal uses within Paradise Irrigation District, T22N, R3 and 4E

Application 22321

Applicant: Gorrill Land Company

Date filed: October 25, 1965
Source: Butte Creek
Tributary to: Butte Slough thence Sacramento River
Quantity: 75 cfs
Season: March 15 to June 15
Purpose: Irrigation use
Point of diversion: Within the SE $\frac{1}{4}$ of NE $\frac{1}{4}$, Section 7, T20N, R2E
Place of use: Irrigation of 1,500 net acres within a gross area of 2,386 acres within Sections 7, 8, 17, 18, 19, 20, 29 and 30, T20N, R2E

Application 22333

Applicants: C. William Johnson and Mary Suzanne Foraker

Date filed: November 12, 1965
Sources: (a) An unnamed slough in Glenn County
(b) Angel Slough
(c) Angel Slough
(d) An unnamed slough in Colusa County
Tributary to:
(a) Howard Slough thence Butte Creek
(b) Angel Slough thence Butte Creek
(c) Angel Slough thence Butte Creek
(d) Butte Creek
All are then tributary to Butte Slough thence Sacramento River
Quantity: 49.1 cfs
Season: March 1 to June 30
Purposes: Irrigation, stockwatering and recreational uses
Points of diversion:
(a) Within the SW $\frac{1}{4}$ of SE $\frac{1}{4}$, Section 19, T18N, R1E
(b) Within the NE $\frac{1}{4}$ of NW $\frac{1}{4}$, Section 6, T17N, R1E
(c) Within Lot 4, Section 6, T17N, R1E
(d) Within the NW $\frac{1}{4}$ of NW $\frac{1}{4}$, Section 7, T17N, R1E
Place of use: Incidental uses and irrigation of 2,428.53 acres within Sections 6, 7 and 18, T17N, R1E; and Sections 19, 20, 29, 30, 31 and 32, T18N, R1E

Application 22499

Applicants: C. William Johnson and Mary Suzanne Foraker

Date filed: June 17, 1966

Sources: (a) An unnamed slough in Glenn County
(b) Angel Slough
(c) Angel Slough
(d) An unnamed slough in Colusa County

Tributary to:

(a) Howard Slough thence Butte Creek
(b) Angel Slough thence Butte Creek
(c) Angel Slough thence Butte Creek
(d) Butte Creek

All are then tributary to Butte Slough thence Sacramento River

Quantity: 49.1 cfs

Season: September 1 to November 15

Purposes: Irrigation, stockwatering and recreational uses

Points of diversion:

(a) Within the SW $\frac{1}{4}$ of SE $\frac{1}{4}$, Section 19, T18N, R1E
(b) Within the NE $\frac{1}{4}$ of NW $\frac{1}{4}$, Section 6, T17N, R1E
(c) Within Lot 4, Section 6, T17N, R1E
(d) Within the NW $\frac{1}{4}$ of NW $\frac{1}{4}$, Section 7, T17N, R1E

Place of use: Incidental uses and irrigation of 2,428.53 acres within Sections 6, 7 and 18, T17N, R1E; and Sections 19, 20, 29, 30, 31 and 32, T18N, R1E

Application 22534

Applicant: Garrison Patrick

Date filed: July 27, 1966

Source: Butte Creek

Tributary to: Butte Slough thence Sacramento River

Quantity: 13 cfs

Season: March 1 to June 30

Purpose: Irrigation use

Point of diversion: Within the NW $\frac{1}{4}$ of SE $\frac{1}{4}$, Section 5, T21N, R2E

Place of use: Irrigation of 759 acres within Sections 1, 12 and 13, T21N, R1E; and Sections 6, 7 and 18, T21N, R2E

Application 22564

Applicant: Louis C. Camenzind, Jr.

Date filed: August 29, 1966

Source: Butte Creek

Tributary to: Butte Slough thence Sacramento River
Quantity: 6.5 cfs
Season: March 1 to June 30
Purpose: Irrigation use
Point of diversion: Within the NW $\frac{1}{4}$ of SE $\frac{1}{4}$, Section 5,
T21N, R2E
Place of use: Irrigation of 150 acres within Sections 7
and 8, T21N, R2E

Application 22653

Applicant: Emmett Warren Skinner, Jr.

Date filed: December 2, 1966
Source: Clear Creek
Tributary to: Dry Creek thence Cherokee Canal thence
Butte Creek thence Butte Slough thence Sacramento
River
Quantity: 1 cfs and 6.3 afa
Season: May 1 to October 15 and November 1 to May 1
Purposes: Irrigation, stockwatering and recreational
uses
Point of diversion: Within the SW $\frac{1}{4}$ of SE $\frac{1}{4}$, Section 15,
T21N, R3E
Place of use: Incidental uses and irrigation of 120
acres, consisting of 40 acres within the SW $\frac{1}{4}$ of
SE $\frac{1}{4}$ and 20 acres within the SE $\frac{1}{4}$ of SE $\frac{1}{4}$, both within
Section 15, and 40 acres within the NW $\frac{1}{4}$ of NE $\frac{1}{4}$ and
20 acres within the NE $\frac{1}{4}$ of NE $\frac{1}{4}$, both within Section
22, all within T21N, R3E.

2. Little Butte Creek and Butte Creek, as well as
the points of diversion and places of use of applicants and
the points of diversion of some protestants, are delineated
and designated on Plate 1 of this decision.

3. Application 22061 by Paradise should be considered
first in right over Application 22039 of Newhall, pursuant to
Section 1460 of the Water Code, even though it was filed later
in time. Paradise is a municipality as that term is used in
Section 1460 (see Board Decision D 858 beginning at p. 64). The
major proposed use by Paradise is domestic. All deliveries are

metered, and for the period 1963 through 1967, use of water for "irrigation" and "irrigation with residence" ranged from 570 afa to 840 afa, with an average of 653 afa, compared with domestic use of 4,120 to 5,860 afa with an average of 5,080 afa. The trend is toward progressively less irrigation and more domestic use (RT 329-F). Paradise has a decreed storage right for 9,500 afa plus other rights which may be used for irrigation, so all the water applied for can be used by the inhabitants of Paradise for domestic purposes. Incidental recreational use is proposed at the reservoir. The permit issued to Paradise should be for municipal, domestic, and incidental recreational uses.

Decision D 858 held that two applications did not qualify for municipal preference under Section 1460 of the Water Code because they included irrigation as well as domestic use, but one of those applications was for 42,300 afa for irrigation use and only 1,500 afa for municipal use, and the other application was for 76,177 afa for irrigation and only 9,019 afa for urban use. By distinguishing the matter under consideration from that considered in Decision D 858, the Board does not necessarily reaffirm said decision.

4. Paradise has a right to store 3,200 afa under Permit 271 (Application 476) in the existing Magalia Reservoir, which will be inundated by the new Magalia Reservoir of 12,000 acre-foot capacity where the water applied for by Application 22061 will be stored. Any permit issued on Application 22061 should be limited to the additional storage proposed of 8,800 afa.

5. The flow in Little Butte Creek during the season of diversion proposed by Paradise has at times exceeded what is required to satisfy the vested rights determined in the Butte Creek Adjudication. In addition to the testimony, the evidence on this subject includes the decree entered in Proceeding No. 18917, Superior Court, Butte County, Paradise Exhibit 7, Newhall Exhibit 5, and Gorrill Exhibit 3. The duration and quantities of such excess flows have varied over a wide range. Operation of the reservoir, as planned by Paradise, will not involve storage of any water required to satisfy prior decreed rights, including those of the protestants J. E. and Louis C. Camenzind, Jr., Gorrill, and Newhall.

6. By a stipulation filed with the Board, Paradise agreed that the season of diversion be changed to October 1 through May 31 and that measuring devices be required, which meets the conditions for withdrawal of protests by Parrott Investment Company and M & T Incorporated.

7. The flow of Butte Creek below Western Canal during the proposed season of diversion, which is augmented by substantial tributary inflow, exceeds the requirements of present users, including all protestants located on this reach of the stream (Staff Exh. 5, Newhall Exh. 6). During the proposed season of diversion by Paradise, diversion of the entire flow of Little Butte Creek would have an insignificant effect on the water available below the Western Canal, even in a dry year, and would not interfere with the prior rights of the protestants located on this reach of the stream, as alleged in their protests.

8. A minimum flow of 0.5 cfs has seeped through the old Magalia Dam since it was constructed in 1917, which has maintained some fish life downstream in Little Butte Creek described as "rough fish" and "not too many trout" (RT 404). Maintenance of 0.5 cfs immediately below the proposed new Magalia Dam should be continued and an appropriate permit term should so provide. Required larger releases in excess of historic flows as requested by the State Department of Fish and Game would substantially reduce the safe yield of the project and would not be in the public interest. The rationale for improving the historic flow below the dam is that it would compensate for reducing the high flow from spill past the existing dam. The spill from the new dam will be less than from the old, but there are no data available from which to evaluate the effect in terms of loss of fish and angler days. The evidence presented on the subject compels the conclusion that the increase in fish population and angler days that will be provided by the new reservoir will far exceed the loss of fish and angler days resulting from the reduction in reservoir spill.

9. The most controversial question at the hearing was the proper present and future per capita domestic use in Paradise Irrigation District. Paradise was required to make a showing that the quantity of water applied for will be reasonably required for future use. From the evidence presented by Paradise, all the water applied for will be required by 1985, based on certain estimates of future population and per capita use which

were revised later in the hearing. Evidence presented by protestants, principally by cross-examination, cast some doubt on these estimates. It is, however, likely that these estimates will be somewhat at variance with what actually will occur 15 years or more in the future. If the population of the district progressively increases, which was not questioned, the end result is that all the water applied for will be used by Paradise at some date in the future when demand in the district increases to the point where it equals the safe yield of the project. There is reason to believe that this point will not be reached until sometime after 1985, perhaps in the 1990-2000 decade, but it is possible that it could be reached before 1985 if demand exceeds expectations. The accuracy of these estimates is relatively unimportant. As a practical matter, the protestants are interested primarily in the depletion of their water supply by the Paradise project which will depend only on actual consumptive use.

10. Some protestants contended that the application by Paradise should be dismissed because of present lack of funds to construct the project. Authorization of a bond issue for the project was defeated by a narrow margin, and the present plans of the district to build the project are contingent upon obtaining the necessary funds by arranging a Davis-Grunsky loan or a new bond issue election. However, the district has made a showing that additional water is needed, that obtaining water from other sources is not feasible, that its application for a

Davis-Grunsky loan is pending, and that another bond election can be held when the water supply situation becomes more critical. This showing is sufficient to justify approval of the application from the financial standpoint. Therefore, a permit should be issued to Paradise, which will be required by law and the terms of the permit to proceed with due diligence to construct the project and to put the water to beneficial use.

11. Application 22039 by Newhall proposes the diversion and use of water which would continue the practice that has been carried on by the applicant for more than 25 years. Historically the flow of Butte Creek at Newhall's proposed point of diversion has exceeded the requirements of prior vested rights above the Western Canal every year during some portion of the proposed season of diversion. The rates and duration of such excess flows have varied; flows in excess of vested rights plus 150 cfs have occurred for periods ranging from 26 days in one year to 71 days in another year (Newhall Exh. 5). Diversion by Paradise under Application 22061 from Little Butte Creek which contributes only approximately eight percent of the flow of Butte Creek, will have only a slight effect on the flow of Butte Creek and on the number of days of excess flow, due to the pattern of rapid decrease in the flow of the stream (Gorrill Exhs. 3a - 3i). Therefore, water will be available for appropriation by Newhall at times during the proposed season of diversion with Paradise diverting as proposed in Application 22061.

12. The flow in lower Butte Creek, the reach from the Western Canal downstream to the Sacramento River and Butte Slough,

is augmented by several tributaries entering from both east and west. The only evidence regarding flows in this reach consists of records of flow from Butte Creek into the Sacramento River and Butte Slough (Staff Exh. 5; Newhall Exh. 6). Substantial flows during the proposed season of diversion for a 10-year period, except for one month, with Newhall diverting the water for which it has applied, demonstrate that Newhall can divert water substantially as proposed without interfering with the prior vested rights below Western Canal, including rights of protestants Reclamation District No. 1004, Johnson and Foraker, and Wild Goose Club.

13. Newhall's past and proposed operations include diverting from Butte Creek at the full capacity of existing facilities (190 cfs) for 10 days, usually in April or May, to initially flood 3,500 acres of rice checks, and then reducing the diversion to approximately 100 cfs or whatever lesser quantity is available. The initial flooding requires 3,800 acre-feet (190 cfs x 2 x 10 days), which would be supplied by diverting 100 cfs for 10 days plus 1,800 acre-feet. Therefore, rights to divert 100 cfs during the irrigation season plus 1,800 acre-feet would satisfy Newhall's requirements. Newhall claims decreed rights totalling 28 cfs, which leaves 72 cfs plus 1,800 acre-feet as the quantity of water in addition to its decreed rights that Newhall can put to beneficial use for the proposed use described in its application.

Newhall's use of water can be broken down as follows:

3,500 acres of rice at 1 cfs per 40 acres	=	87.5 cfs
2,500 acres general crops _____ at 1 cfs per 80 acres	=	<u>31.25</u> cfs
6,000 acres total		118.75 cfs
Hamlin Slough diversion	-	<u>16.60</u> cfs
Butte Creek diversion	=	102.15 cfs
Additional water to initially flood 3,500 acres of rice: 1,800 acre-feet or 0.514 acre-feet per acre		

This breakdown indicates that without the additional quantity required during the initial fill-up period, Newhall uses very close to the often-used duty of water of 1 cfs for 80 acres of general crops and 1 cfs for 40 acres of rice.

Newhall's permit should be for 72 cfs and an additional 1,800 afa as necessary for the express purpose of initially flooding 3,500 acres for irrigation of rice. The season of diversion should be from about April 1 to about June 15 of each year rather than March 15 to June 15 as requested in the application. There was persuasive evidence that rice culture requires initial flooding commencing in April or May, and Newhall's claimed decreed rights to divert for irrigation purposes begin on April 1. The maximum rate of diversion from Butte Creek and Hamlin Slough for this permit and all prior rights should not exceed 102.15 cfs, except that the rate from Butte Creek may be increased to 190 cfs (the capacity of the diversion works) and to 200 cfs from both Butte Creek and Hamlin Slough while initially flooding land for rice irrigation.

14. Gorrill requested that its permit have equal priority with the permit to be issued to Newhall on the ground of the past practices of the parties and an alleged agreement. Newhall objected to the request. The evidence is not sufficiently clear to justify the Board in upsetting priorities established by statute. (See Water Code Sections 1450 and 1455.) However, in denying Gorrill's request, the Board makes no decision as to whether or not Gorrill and Newhall are legally entitled or obligated to exercise their respective permit rights according to priorities differing from those fixed by statute.

15. The same evidence that shows water is available for appropriation by Newhall also shows water available for appropriation by Gorrill at times during the proposed season of diversion even though the earlier priority of Newhall is recognized. Newhall's practice of diverting for the purpose of irrigating rice and other crops at the maximum rate for the period required for initially flooding 3,500 acres of rice, approximately 10 days, and at a reduced rate thereafter, has historically left sufficient water for Gorrill to divert for the purpose described in its application. It is reasonable to assume that historical flows and uses will be repeated and that there will be unappropriated water available to supply Gorrill at times during the irrigation season in the maximum amount that will be specified in its permit.

16. Gorrill's operations, like Newhall's, include raising rice. Water use was described by Gorrill's witnesses

in various ways: irrigation of 1,500 acres of rice (RT 271) and 1,800 acres of rice (RT 284); 75 cfs for 7 days to fill up and 25 cfs for holding on a 30-day equivalent basis (RT 271); .075 cfs per acre for 7-day fill-up and .025 cfs per acre for holding (RT 271); 140 (RT 299) and 133 (RT 308) cfs maximum capacity, 1,500-plus acre-feet for flooding (RT 276).

By applying the customary duty of water to Gorrill's operations, the following amounts are derived:

1,500 acres of rice at 1 cfs per 40 acres	= 37.5 cfs
<u>800 acres of general crops at 1 cfs</u> per 80 acres	= <u>10.0</u> cfs
2,300 acres total	= 47.5 cfs total

On the same basis as Newhall, the additional amount for initial flooding would be $0.514 \times 1,500$ acres = 770 acre-feet.

Gorrill's permit should be for 47.5 cfs, less decreed rights of 21.7 cfs, or 25.8 cfs, and an additional 770 afa as necessary for the express purpose of initially flooding 1,500 acres for irrigation of rice. The season of diversion should be the same as for Newhall, April 1 to June 15, and for the same reasons. (See paragraph 13.) The maximum rate of diversion from Butte Creek and Hamlin Slough by Gorrill for this and all prior rights should not exceed 47.5 cfs, except that the rate may be increased to a maximum of 140 cfs (the capacity of the diversion works) while initially flooding land for rice irrigation.

17. Newhall, Gorrill, and Fish and Game are in general agreement that the regimen of the stream should remain unchanged,

that Newhall and Gorrill should be allowed to continue to divert as in the past, and that the flow remaining below the diversions of Newhall and Gorrill should continue to be maintained at not less than the minimum rate in previous years during the period ending May 31.

In summary, the testimony was that Newhall diverts at 190 cfs while flooding and then reduces to 100 cfs, Gorrill diverts at 140 cfs while flooding and reduces to 45 cfs. Fish and Game witnesses testified that 60 cfs has been the minimum in the past and is required for the spring migration of salmon. Initial flooding is accomplished usually in April or May. Other decreed rights between Durham Gage and Western Canal require approximately 16 cfs (Newhall's Exh. 4). With simultaneous diversions by Newhall and Gorrill at maximum capacity for flooding, the total would be:

Newhall	190 cfs
Gorrill	140 cfs
Other diversions	16 cfs
Minimum fish flow	<u>60</u> cfs
Total	406 cfs

With maximum diversions by Newhall first and then Gorrill for flooding, the totals would be:

Newhall	190 cfs	100 cfs
Gorrill	45 cfs	140 cfs
Other diversions	16 cfs	16 cfs
Minimum fish flow	<u>60</u> cfs	<u>60</u> cfs
Total	311 cfs	316 cfs

With diversions at the reduced rates after initial flooding has been accomplished, the total would be:

Newhall	100 cfs
Gorrill	45 cfs
Other diversions	16 cfs
Minimum fish flow	<u>60</u> cfs
Total	221 cfs

Comparison of the figures, based on estimates by the various witnesses with the measured flow at the DWR gaging station (Staff Exh. 5; Gorrill Exh. 3), indicates there are inaccuracies in either the diversion estimates or the estimates of flow remaining for fish, or both. The testimony of the witnesses, particularly on cross-examination, disclosed that little, if any, basic data were available to assist in making the estimates. Without reliable estimates or adequate basic data, sufficient information is not available to finally determine the terms and conditions which will reasonably protect fish life without resulting in waste of water, and a period of actual operation will be necessary to secure the required information. Therefore, jurisdiction should be reserved to finally determine such terms and conditions, and, in the interim, the combined diversions by Newhall and Gorrill should not exceed 240 cfs, unless the flow is sufficient to permit larger combined diversions by Newhall and Gorrill without reducing the flow remaining below Gorrill to less

than the 60 cfs required for maintaining fish life and the 16 cfs required to satisfy other decreed rights.

18. Application 22499 by C. William Johnson and Mary Suzanne Foraker was withdrawn (RT 8). Their Application 22333 is for 49.1 cfs, to be used together with water diverted under riparian rights and pumped groundwater, to irrigate 1,600 acres of rice and 500 acres of general crops. The applicants' proposed operation is to apply 85 cfs (28 cfs from wells and 57 cfs from surface diversions including riparian rights) for 10 days to fill the rice checks and irrigate general crops, and then reduce surface diversions to rates varying from 12 to 36 cfs as the rice acreage is drained, refilled, and maintained (J-F Exh. No. 3).

These applicants have access to return flows from upstream irrigation which are not available to other applicants and which enter Butte Creek below the Chico and Durham gages. Applicants' rice enterprise will cause a net depletion of only about 900 afa more than their pasture stock-raising operation when increased return flow from water they will pump from wells is taken into consideration. This depletion will occur during the early spring months when flow in the lower end of Butte Basin is usually plentiful.

Using the same approach as we did for Newhall and Gorrill, the permit should specify the rate of continuous diversion necessary for the proposed use, exclusive of the water required for initially flooding the rice acreage, and an additional quantity to provide for initial flooding. The evidence presented by the applicants (Exh. 3) showed they may require a maximum of approximately 40 cfs at times during the proposed season of diversion to meet their needs for other than the initial flooding (approximately 35 cfs on June 10 for rice and approximately 5 cfs on April 20 for other crops). Eighty-five cfs for 10 days, or 1,700 acre-feet, were shown to be required to initially flood the rice acreage and at the same time to irrigate general crops. In a 10-day period, 1,360 acre-feet would be provided by pumping 28 cfs from groundwater and diverting 40 cfs from Butte Creek, leaving 340 acre-feet as the quantity required in addition to a continuous flow of 68 cfs from Butte Creek and wells to accomplish the initial flooding. The applicants' claimed riparian rights will yield quantities varying with the year and the season; therefore, the permit should authorize diversion of not to exceed 40 cfs, including any quantity diverted under claim of riparian rights, plus 340 acre-feet for the purpose of initially flooding 1,600 acres for the irrigation of rice, provided the maximum rate of diversion from Butte Creek may be increased to 57 cfs while initially flooding the rice acreage. The season of diversion should commence April 1, the same as for Newhall and Gorrill, and end June 15 in accordance

with the determination by the Board in previous decisions that there is no unappropriated water in the Sacramento River and its tributaries between Shasta Dam and Knights Landing from June 15 to August 31.

19. Application 22534 was filed by Garrison Patrick to cover the same diversion and use of water as in the past for the season from March 1 through June 30. Mr. Patrick has been diverting at the full capacity of his facilities commencing as early as conditions permit and continuing until required by the watermaster to reduce the rate of diversion in accordance with the Butte Creek decree. He claims to have succeeded to the decreed rights of Clarence S. Engler, Marie E. Roth, and Bee P. Compton, which include those listed in Schedule 7 of the decree, and also the right referred to in paragraphs 36 and 77 of the decree to divert at the maximum capacity of the facilities between October 16 and April 1 and at other times whenever the flow in Butte Creek below Little Butte Creek exceeds 88 cfs. Mr. Patrick filed Application 22534 to acquire whatever additional rights he needs. He specified 13 cfs in the application as that is his estimate of the maximum capacity of the diversion facilities. During the hearing, it was suggested he amend his application to 12 cfs during March and 8 cfs during April, May, and June "inasmuch as these quantities added to the prior rights of Mr. Patrick would amount to 13 cfs." Mr. Patrick agreed to the suggestion, but later asserted that he was asking for 13 cfs total. Since the decreed rights are subject to variation,

depending on the flow in Butte Creek, and since Mr. Patrick is using water on lands other than those described in the decree, it would seem prudent, rather than accepting the amendment, to include a permit term that the total diversion by permittee pursuant to rights defined in the decree and pursuant to the permit shall not exceed 13 cfs. Mr. Patrick requested that permits issued pursuant to his application and the Newhall, Gorrill, and Camenzind applications be conditioned so as to give each an equal priority with the others. For reasons stated in paragraph 14, the request must be denied; Mr. Patrick's application has a priority of right established by statute which is subsequent to the priority of right for the Newhall and Gorrill applications and prior to the priority of right of the Camenzind application. From all the evidence, it must be concluded that there will be some flow in Butte Creek in excess of that required to satisfy prior rights, including rights applied for by Newhall and Gorrill and 60 cfs below Gorrill's point of diversion to provide for the migration of salmon, in most years at times from March 1 through June 15, but not thereafter.

20. Application 22564 by Louis C. Camenzind, Jr., presents substantially the same situation as presented by the Patrick application. Mr. Camenzind applied for 6.5 cfs so as to continue his past practice of diverting at the full capacity of his facilities until reduced by the watermaster to his decreed right which is a portion of the decreed right of Lieurance, his predecessor in interest. Any permit issued to him should be for

the diversion of not to exceed 6.5 cfs for the season March 1 through June 15, with the condition that the total diversion by the permittee, pursuant to rights defined in the decree and pursuant to the permit, shall not exceed 6.5 cfs.

21. The duty of water for Patrick's proposed use is 1 cfs for 42.2 acres and for Camenzind's proposed use is 1 cfs for 23.1 acres, both of which are lower than considered reasonable in most portions of the Central Valley for ordinary crops even when there is high transpiration loss and porous soil (23 Cal. Adm. Code Sec. 657(a)). Any permits issued will limit the quantities the permittees may divert during the permit period to the quantities specified in the applications, but the permittees will acquire rights to only such quantities as are actually diverted and put to beneficial use in conformity with law, regulations and permit terms, which quantities will be determined at the time the licenses are issued.

22. The Wild Goose Club protested Applications 22039 (Newhall), 22499 (withdrawn), 22534 (Patrick) and 22564 (Camenzind) on the grounds that the proposed appropriations would interfere with the club's prior rights. Copies of a judgment and three agreements were introduced as evidence of prior rights claimed by Wild Goose and several other gun clubs located in the vicinity. Evidence regarding the clubs' water requirements and the effect of the proposed appropriations on the claimed prior rights was offered in the form of testimony by Mr. J. M. Long.

The Wild Goose Club claims that the clubs have rights to water that drains from Reclamation District No. 833 and the several drainage districts referred to in the agreements and to water released from the Western Canal into Butte Creek pursuant to the agreements. A detailed analysis and determination of the rights of the gun clubs, by virtue of the agreements, to public water of the State is not necessary, as the evidence shows that none of the proposed diversions which were protested will interfere with the exercise by the Wild Goose Club and the other clubs of the rights claimed, for two reasons:

(1) The proposed points of diversion in the protested applications are so located with relation to the gun clubs, the districts, and the Western Canal that the applicants could not divert either drainage from any of the districts or releases from the Western Canal, and

(2) The seasons of diversion proposed in the protested applications are limited to a period when the water available exceeds the requirements of the Wild Goose Club and the other clubs.

The districts are located north and east, and relatively close to the Wild Goose Club and the other clubs. The drainage from the districts flows in a generally southwesterly direction. The proposed points of diversion in the protested applications are located many miles north and upstream from the districts and the Western Canal and are remote from any of the channels which contain drainage from the districts and water released by the Western Canal Company.

The seasons of diversion in the protested applications are included in the period March 1 to June 30. Mr. Long testified (RT 34, et seq.) that the use made of club land requires high flows of water from October 10 to January 15; there is a tremendous amount of water during the rainy season, from December to March; in March or April, after spring floods, drainage from irrigation upstream causes flooding of the duck club lands and in some years the duck club lands are flooded out a good portion of the year; most of the drainage from irrigation in the districts converges in Sanborn Slough above the Wild Goose Club property and floods all the gun clubs, which the gun clubs agreed to permit in exchange for water released in October, November, and December from Western Canal; during the summertime the duck clubs are obligated to take and store drainage water from the districts, which is more than they can use; when the flow in Butte Creek at Sanborn Slough drops below 200 cfs, the Wild Goose Club can call on the Western Canal Company for an additional 100 cfs; the club has all it needs from March 15 to June 15 and has not experienced any shortage of water between March 1 and June 30 in previous years.

Reclamation District No. 833, which previously filed a protest against Application 22499 only, requested permission at the hearing to protest Application 22333 and to adopt the testimony and exhibits of the Wild Goose Club as evidence in support of its protest. Johnson and Foraker, the applicants, objected to the protest by Reclamation District No. 833. Mr. Sans,

attorney for the district, explained his position at some length. Mr. Sans' argument that the district should be allowed to protest Application 22333 because it had protested Application 22499 which had been withdrawn by the same applicants, is not convincing. However, a ruling on the technical question whether Reclamation District No. 833 should be permitted to protest Application 22333 is academic under the circumstances, as the basis of the protest is that the diversion proposed under Application 22333 from March 1 through June 30 would interfere with the rights of Wild Goose Club and the other gun clubs, which was refuted in the presentation on behalf of the gun clubs.

23. Application 22653 was filed by Emmett Warren Skinner, Jr., to divert from Clear Creek 1 cfs from May 1 to October 15 and 6.3 afa to be collected from November 1 to May 1. This application was protested by the Delta group, which advised the Board that the protests could be dismissed if the standard clause were included for permits to appropriate from the Sacramento River and its tributaries during the period June 15 to August 1 between Shasta Dam and Knights Landing. Clear Creek is tributary to Dry Creek, which normally does not flow during the period June 15 to August 1, so the standard clause referred to by the Delta group would not be appropriate. No evidence was offered to support the claim of the Delta group that this application proposed a diversion which would adversely affect the protestants' prior rights, and the protest is therefore denied.

24. There were numerous protests to the various applications, as shown on Table I attached to the notice of hearing,

and additional protests were submitted, over objection, at the hearing. Some protests were withdrawn pursuant to stipulations, which will be referred to in appropriate permit terms. The remaining protests which have not already been discussed in this decision are based upon interference with prior rights. The evidence presented by applicants and protestants, in summary, proves there will be substantial quantities of unappropriated water available to supply all applicants except during certain periods which will vary with fluctuations in the annual runoff from the Butte Creek watershed. All permits are issued subject to vested rights, which imposes an obligation on all permittees to cease diverting in the inverse order of their priorities when the flow of Butte Creek decreases to the rate sufficient only to satisfy uses under prior rights. Unappropriated water being available which can be diverted without interference with prior rights, the protests will be denied and the permits will be issued.

25. Numerous suggestions and comments were made during the hearing regarding watermaster control over diversions authorized by any permits issued and the proper apportionment of watermaster expenses. The Board may require a permittee to request appointment of a watermaster, but the Department of Water Resources has exclusive jurisdiction over the establishment of watermaster service areas, the appointment of watermasters, and the apportionment of watermaster expenses. Applicants Newhall, Gorrill, Patrick, and Camenzind will divert within the established Butte Creek watermaster service area under permits to be issued

and would therefore appear to be subject to watermaster regulation. We see no reason to require any of the other applicants to request watermaster service. Allocation of the watermaster expenses to the diverters under permits and under decreed rights is a matter for determination by the Department of Water Resources in accordance with the applicable statutory provisions. It is believed that the allowance of a specified quantity of water for initial flooding of rice land in addition to water to be diverted at a continuous rate will permit the Department of Water Resources to allocate watermaster expenses on an equitable basis.

From the foregoing findings, the Board concludes that Applications 22039 (Newhall), 22061 (Paradise), 22321 (Gorrill), 22333 (Johnson and Foraker), 22534 (Patrick), and 22564 (Camenzind) should be approved in part and that Application 22653 (Skinner) should be approved, and that permits should be issued to the applicants, subject to the limitations and conditions set forth in the order following.

ORDER

IT IS HEREBY ORDERED that Application 22039 (Newhall) be, and it is, approved in part, and that a permit be issued to the applicant, subject to vested rights and to the following limitations and conditions:

1. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed (a) 72 cubic feet per second (cfs) by direct diversion to be

diverted from about April 1 to about June 15 of each year for irrigation purposes, and (b) 1,800 acre-feet (af) by direct diversion during the same season as required to initially flood land for rice culture purposes. The total annual diversion under this permit shall not exceed 12,600 acre-feet.

2. The maximum combined rate of diversion by permittee from Butte Creek under this permit and all prior rights shall not exceed 100 cfs, except that said maximum rate may be increased to 190 cfs to initially flood land for rice culture purposes.

3. The Board reserves jurisdiction over this permit to add terms and conditions relative to the flow required to maintain fish life and for the purpose of conforming the season of diversion to later findings of the Board on prior applications involving water in the Sacramento River Basin and Delta. Action by the Board will be taken only after notice to interested parties and opportunity for hearing.

4. The maximum quantity herein stated may be reduced in the license if investigation warrants.

5. Complete application of the water to the proposed use shall be made on or before December 1, 1972.

6. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the Board until license is issued.

7. All rights and privileges under this permit, 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.

8. 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 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.

9. Permittee shall allow representatives of the 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. Rights acquired under this permit shall be junior to rights acquired under permit issued pursuant to Application 22061 to Paradise Irrigation District.

11. Rights under this permit are, and shall be, subject to existing rights defined by the Butte Creek Adjudication, Superior Court, Butte County, No. 18917, and such other rights as may presently exist on the stream, insofar as said existing and adjudicated rights are maintained.

IT IS FURTHER ORDERED that Application 22061 (Paradise) be, and it is, approved in part, and that a permit be issued to the applicant subject to vested rights and to the following limitations and conditions:

1. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 8,800 acre-feet per annum by storage to be collected from about October 1 of each year to about May 31 of the succeeding year for municipal, domestic, and incidental recreational uses.

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

2. The State Water Resources Control Board (Board) reserves jurisdiction over this permit for the purpose of conforming the season of diversion to later findings of the Board on prior applications involving water in the Sacramento River Basin and Delta. Action by the Board will be taken only after notice to interested parties and opportunity for hearing.

3. The maximum quantity herein stated may be reduced in the license if investigation warrants.

4. Actual construction work shall begin on or before June 1, 1971, and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted this permit may be revoked.

5. Said construction work shall be completed on or before December 1, 1973.

IT IS FURTHER ORDERED that Application 22061 (Paradise) be, and it is, approved in part, and that a permit be issued to the applicant subject to vested rights and to the following limitations and conditions:

1. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 8,800 acre-feet per annum by storage to be collected from about October 1 of each year to about May 31 of the succeeding year for municipal, domestic, and incidental recreational uses.

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

2. The State Water Resources Control Board (Board) reserves jurisdiction over this permit for the purpose of conforming the season of diversion to later findings of the Board on prior applications involving water in the Sacramento River Basin and Delta. Action by the Board will be taken only after notice to interested parties and opportunity for hearing.

3. The maximum quantity herein stated may be reduced in the license if investigation warrants.

4. Actual construction work shall begin on or before June 1, 1971, and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted this permit may be revoked.

5. Said construction work shall be completed on or before December 1, 1973.

6. Complete application of the water to the proposed use shall be made on or before December 1, 1985.

7. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the Board until license is issued.

8. All rights and privileges under this permit, 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 and unreasonable method of diversion of said water.

9. 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 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.

10. Permittee shall allow representatives of the 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.

11. Permittee shall install and maintain an outlet pipe of adequate capacity in his dam as near as practicable to the bottom of the natural stream channel, or provide other means satisfactory to the Board in order that water entering the reservoir or collected in the reservoir during and after the current storage season may be released into the downstream channel to the extent necessary to satisfy downstream prior rights.

12. Permittee shall install and maintain measuring devices satisfactory to the Board in order that accurate measurement can be made of the quantity of water flowing into and out of said reservoir.

13. While diverting water to storage as authorized in this permit, permittee shall bypass a minimum of 0.5 cubic foot per second to maintain fish life.

14. In accordance with the requirements of Water Code Section 1393, permittee shall clear the site of the proposed reservoir of all structures, trees, and other vegetation which would interfere with the use of the reservoir for water storage and recreational purposes.

15. Construction of the dam shall not be commenced until the Department of Water Resources has approved plans and specifications.

16. Rights under this permit are, and shall be, subject to existing rights defined by the Butte Creek Adjudication,

Superior Court, Butte County, No. 18917, and such other rights as may presently exist on the stream, insofar as said existing and adjudicated rights are maintained.

IT IS FURTHER ORDERED that Application 22321 (Gorrill) be, and it is, approved in part, and that a permit be issued to the applicant subject to vested rights and to the following limitations and conditions:

1. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed (a) 25.8 cubic feet per second (cfs) by direct diversion to be diverted from about April 1 to about June 15 of each year for irrigation purposes, and (b) 770 acre-feet (af) by direct diversion during the same season as required to initially flood land for rice culture purposes. The total annual diversion under this permit shall not exceed 4,650 acre-feet.

2. The maximum combined rate of diversion by permittee from Butte Creek and Hamlin Slough under this permit and all prior rights shall not exceed 47.5 cfs except that diversion from Butte Creek may be increased to 140 cfs to initially flood land for rice culture purposes.

3. The diversion authorized of 770 afa to flood land for rice culture purposes shall be made at rates which, when combined with the rates at which Newhall is diverting from Butte Creek, do not exceed 240 cfs unless the flow remaining downstream from permittee's point of diversion exceeds 60 cfs to maintain fish life plus 16 cfs required to supply decreed rights above the Western Canal. Permittee shall install and maintain measuring devices satisfactory to the State Water Resources Control Board

(Board) so that accurate measurement can be made of the quantity of water flowing beyond permittee's diversion facilities during the period when water is being diverted at a rate in excess of 47.5 cfs; records of such flow shall be collected and supplied to the Board with the annual progress report.

4. The Board reserves jurisdiction over this permit to amend, revise, supplement or delete terms and conditions relative to the flow required to maintain fish life and for the purpose of conforming the season of diversion to later findings of the Board on prior applications involving water in the Sacramento River Basin and Delta. Action by the Board will be taken only after notice to interested parties and opportunity for hearing.

5. The maximum quantity herein stated may be reduced in the license if investigation warrants.

6. Complete application of the water to the proposed use shall be made on or before December 1, 1972.

7. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the Board until license is issued.

8. All rights and privileges under this permit, 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.

9. 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 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.

10. Permittee shall allow representatives of the 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.

11. Rights under this permit are, and shall be, subject to existing rights defined by the Butte Creek Adjudication, Superior Court, Butte County, No. 18917, and such other rights as may presently exist on the stream, insofar as said existing and adjudicated rights are maintained.

IT IS FURTHER ORDERED that Application 22333 (Johnson and Foraker) be, and it is, approved in part, and that a permit be issued to the applicants subject to vested rights and to the following limitations and conditions:

1. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed (a) 40 cubic feet per second by direct diversion to be diverted from about April 1 to about June 15 of each year for irrigation purposes, and (b) 340 acre-feet per annum by direct diversion during the same season as required to initially flood land for rice culture purposes. The total annual diversion under this permit shall not exceed 6,350 acre-feet.

2. Any riparian right to use water on any portion of the land designated as the place of use in this permit and the right acquired under this permit shall not result in a combined right to the use of water in excess of that which could be claimed under the larger of the two rights.

3. The maximum combined rate of diversion by permittee under this permit and all prior rights shall not exceed 40 cfs except that said maximum rate may be increased to 57 cfs to initially flood land for rice culture purposes.

4. The State Water Resources Control Board (Board) reserves jurisdiction over this permit for the purpose of conforming the season of diversion to later findings of the Board on prior applications involving water in the Sacramento River Basin and Delta. Action by the Board will be taken only after notice to interested parties and opportunity for hearing.

5. The maximum quantity herein stated may be reduced in the license if investigation warrants.

6. Actual construction work shall begin on or before June 1, 1970, and shall thereafter be prosecuted with reasonable

diligence, and if not so commenced and prosecuted this permit may be revoked.

7. Said construction work shall be completed on or before December 1, 1972.

8. Complete application of the water to the proposed use shall be made on or before December 1, 1975.

9. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the Board until license is issued.

10. All rights and privileges under this permit, 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.

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 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. Permittee shall allow representatives of the 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.

IT IS FURTHER ORDERED that Application 22534 (Patrick) be, and it is, approved in part, and that a permit be issued to the applicant subject to vested rights and to the following limitations and conditions:

1. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 13 cubic feet per second by direct diversion to be diverted from about March 1 to about June 15 of each year. The total annual diversion under this permit shall not exceed 1,950 acre-feet.

2. Rights under this permit are, and shall be, subject to existing rights defined by the Butte Creek Adjudication, Superior Court, Butte County, No. 18917, and such other rights as may presently exist on the stream, insofar as said existing and adjudicated rights are maintained.

3. Any prior right to use water on any portion of the land designated as the place of use in this permit and the right acquired under this permit shall not result in a combined right to the use of water in excess of that which could be claimed under the larger of the two rights.

4. Pursuant to the stipulation between Garrison Patrick and Reclamation District No. 1004 dated January 18, 1967,

and placed on record in the office of the State Water Resources Control Board (Board), the diversion authorized by this permit is limited to amounts which will not diminish the flow of water available to Reclamation District No. 1004 to the extent required by said district's irrigation use.

5. Pursuant to the stipulation between Garrison Patrick and Wild Goose Club dated December 22, 1966, and placed on record in the office of the Board, the diversion authorized by this permit will be subject to the prior rights of Wild Goose Club noted in its protest to Application 22534.

6. The Board reserves jurisdiction over this permit for the purpose of conforming the season of diversion to later findings of the Board on prior applications involving water in the Sacramento River Basin and Delta. Action by the Board will be taken only after notice to interested parties and opportunity for hearing.

7. The maximum quantity herein stated may be reduced in the license if investigation warrants.

8. Complete application of the water to the proposed use shall be made on or before December 1, 1972.

9. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the Board until license is issued.

10. All rights and privileges under this permit, 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.

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 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. Permittee shall allow representatives of the 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.

IT IS FURTHER ORDERED that Application 22564 (Camenzind) be, and it is, approved in part, and that a permit be issued to the applicant subject to vested rights and to the following limitations and conditions:

1. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed

6.5 cubic feet per second by direct diversion to be diverted from about March 1 to about June 15 of each year. The total annual diversion under this permit shall not exceed 975 acre-feet.

2. Rights under this permit are, and shall be, subject to existing rights defined by the Butte Creek Adjudication, Superior Court, Butte County, No. 18917, and such other rights as may presently exist on the stream, insofar as said existing and adjudicated rights are maintained.

3. Any prior right to use water on any portion of the land designated as the place of use in this permit and the right acquired under this permit shall not result in a combined right to the use of water in excess of that which could be claimed under the larger of the two rights.

4. The State Water Resources Control Board (Board) reserves jurisdiction over this permit for the purpose of conforming the season of diversion to later findings of the Board on prior applications involving water in the Sacramento River Basin and Delta. Action by the Board will be taken only after notice to interested parties and opportunity for hearing.

5. The maximum quantity herein stated may be reduced in the license if investigation warrants.

6. Complete application of the water to the proposed use shall be made on or before December 1, 1972.

7. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the Board until license is issued.

8. All rights and privileges under this permit, 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.

9. 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 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.

10. Permittee shall allow representatives of the 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.

IT IS FURTHER ORDERED that Application 22653 (Skinner) be, and it is, approved, and that a permit be issued to the applicant subject to vested rights and to the following limitations and conditions:

1. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 1.0 cubic foot per second by direct diversion to be diverted from about May 1 to about October 15 of each year and 6.3 acre-feet per annum by storage to be collected from about November 1 of each year to about May 1 of the succeeding year. The equivalent of such continuous flow allowance for any 30-day period may be diverted in a shorter time if there be no interference with vested rights. The total annual diversion under this permit shall not exceed 340 acre-feet.

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

2. This permit is issued expressly subject to the terms of that certain stipulation dated December 13, 1967, between the applicant and Leah Martin and placed on record in the office of the State Water Resources Control Board (Board), in connection with Application 22653, to the extent that the provisions of the agreement relate to matters within the jurisdiction of the Board.

3. The maximum quantity herein stated may be reduced in the license if investigation warrants.

4. Actual construction work shall begin on or before June 1, 1970, and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted this permit may be revoked.

5. Said construction work shall be completed on or before December 1, 1972.

6. Complete application of the water to the proposed use shall be made on or before December 1, 1975.

7. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the State Water Resources Control Board until license is issued.

8. All rights and privileges under this permit, 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.

9. 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 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.

10. 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.

11. Permittee shall install and maintain an outlet pipe of adequate capacity in his dam as near as practicable to the bottom of the natural stream channel, or provide other means satisfactory to the Board, in order that water entering the reservoir or collected in the reservoir during and after the current storage season may be released into the downstream channel to the extent necessary to satisfy downstream prior rights.

Adopted as the decision and order of the State Water Resources Control Board at a meeting duly called and held at Long Beach, California.

Dated: September 18, 1969

KERRY W. MULLIGAN
Kerry W. Mulligan, Chairman

W. A. ALEXANDER
W. A. Alexander, Vice Chairman

NORMAN B. HUME
Norman B. Hume, Member

E. F. DIBBLE,
E. F. Dibble, Member

RONALD B. ROBIE
Ronald B. Robie, Member

