STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

ORDER

Application 23201 Permit 16771 License _____

ORDER APPROVING A NEW DEVELOPMENT SCHEDULE AND AMENDING THE PREMIT

WHEREAS:

1. Permit 16771 was issued to Reclamation District 1004 on October 27, 1975.

2. The Department of Fish and Game (DFG) filed a complaint with the State Water Resources Control Board (SWRCB) against permittee for noncompliance to Terms No. 14 and 15 of the permit.

3. The DFG complaint was withdrawn on April 29, 1988 after the permittee and DFG entered into negotiation to modify the 1973 Stipulation and update Terms No. 14 and 15.

4. A petition for an Extension of Time in which to revise Permit Terms No. 14 and 15; to comply with Terms No. 14 and 15; develop the project; and apply the water to the proposed use was filed with the SWRCB on May 23, 1989.

5. The permittee, on April 19, 1995, request that the SWRCB defer action on the petition for an extension of time until the litigation, in which the permittee is named as a party, is resolved.

6. A copy of the Trial Operation Agreement for the Sanborn Slough Diversion Facility that resolved the 1995 litigation was provided to the SWRCB on December 10, 1997. The site is also an issue being negotiated between DFG and permittee to modify or replace of the 1973 Stipulation and Terms No. 14 and 15.

7. The permittee has proceeded with diligence and good cause has been shown for said extension of time.

8. Condition pertaining to continuing authority of the State Water Resources Control Board should be updated in Permit 16771 to conform to Section 780(a), Title 23 of the California Code of Regulations.

9. Fish or wildlife species have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Condition 7 of the permit be amended to read:

   Complete application of the water to the proposed use shall be made by December 31, 2005. (0000009)

2. A continuing authority condition shall be updated and read as follows:

Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

3. Endangered or Threatened Species Terms is added and shall read as: follows:

This permit does not authorize any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). The permittee should seek guidance from the Endangered Species Act agency on whether an incidental take permit is advisable for this activity and pursue obtaining such a permit as appropriate.

Date JULY 14 1998

Edward C. Anton, Chief
Division of Water Rights

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

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 16771

Application 23201 of RECLAMATION DISTRICT #1004, C/O MURRAY, BURNS & KIENLEN, 1107 NINTH STREET, SACRAMENTO, CALIFORNIA 95814

filed on DECEMBER 26, 1968, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

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

1. Source:

Source	Tributary to:
(1)(2) UNNAMED DRAIN	BUTTE CREEK
(3)(4) BUTTE CREEK	BUTTE SLOUGH
(5) BUTTE SLOUGH	SACRAMENTO RIVER

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridan
(1) SOUTH 2,450 FEET AND WEST 250 FEET FROM NE CORNER OF PROJECTED SECTION 12	SE1/4 OF NE1/4	12	17N	1W	MD
(2) SOUTH 350 FEET AND WEST 2,900 FEET FROM NE CORNER OF PROJECTED SECTION 25	NE1/4 OF NW1/4	25	17N	1W	MD
(3) SOUTH 1,975 FEET AND EAST 150 FEET FROM NW CORNER OF PROJECTED SECTION 14	SW1/4 OF NW1/4	14	16N	1W	MD
(4) NORTH 3,350 FEET AND WEST 750 FEET FROM SE CORNER OF PROJECTED SECTION 26	SE1/4 OF NE1/4	26	16N	1W	MD
(5) SOUTH 2,350 FEET AND WEST 1,600 FEET FROM NE CORNER OF PROJECTED SECTION 35	SW1/4 OF NE1/4	35	16N	1W	MD

County of COLUSA

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridan	Acres
RECREATIONAL						
IRRIGATION	IRRIGATION OF 7,000 ACRES AND FLOODING OF 2,500 ACRES FOR DUCK PONDS WITHIN A GROSS AREA OF 14,700 ACRES WITHIN THE BOUNDARIES OF RECLAMATION DISTRICT 1004 IN T16N AND T17N, R1W, MDB&M					

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

5. THE WATER APPROPRIATED SHALL BE LIMITED TO THE QUANTITY WHICH CAN BE BENEFICIALLY USED AND SHALL NOT EXCEED DIVERSION FOR IRRIGATION PURPOSES OF 34 CUBIC FEET PER SECOND FROM RECLAMATION DISTRICT 1004 BORROW PIT (UNNAMED DRAIN) AT POINT (1); 62 CUBIC FEET PER SECOND FROM RECLAMATION DISTRICT 1004 BORROW PIT (UNNAMED DRAIN) AT POINT (2); 20 CUBIC FEET PER SECOND FROM BUTTE CREEK AT POINT (3); 10 CUBIC FEET PER SECOND FROM BUTTE CREEK AT POINT (4); AND 10 CUBIC FEET PER SECOND FROM BUTTE CREEK AT POINT (5), FROM APRIL 1 TO JUNE 15 AND FROM SEPTEMBER 1 TO SEPTEMBER 15, PROVIDED THAT THE TOTAL DIVERSION FROM ALL FIVE POINTS OF DIVERSION SHALL NOT EXCEED 110 CUBIC FEET PER SECOND; AND FOR RECREATIONAL (DUCK POND) PURPOSES OF 48 CUBIC FEET PER SECOND FROM POINT (1); 126 CUBIC FEET PER SECOND FROM POINT (2); 11 CUBIC FEET PER SECOND FROM POINT (3); 10 CUBIC FEET PER SECOND FROM POINT (4); AND 0.6 CUBIC FEET PER SECOND FROM POINT (5), FROM SEPTEMBER 15 TO JANUARY 31, PROVIDED THAT THE TOTAL DIVERSION FROM ALL FIVE POINTS OF DIVERSION SHALL NOT EXCEED 140 CUBIC FEET PER SECOND.

THE MAXIMUM AMOUNT DIVERTED UNDER THIS PERMIT FOR IRRIGATION PURPOSES SHALL NOT EXCEED 15,000 ACRE-FEET PER ANNUM AND FOR RECREATION (DUCK POND) PURPOSES SHALL NOT EXCEED 21,000 ACRE-FEET PER ANNUM.

SO LONG AS THERE IS NO INTERFERENCE WITH OTHER RIGHTS, JUNIOR, AS WELL AS SENIOR, PERMITTEE MAY INCREASE HIS RATE OF DIVERSION TO A MAXIMUM OF 85 CUBIC FEET PER SECOND AT POINT (1); 100 CUBIC FEET PER SECOND AT POINT (2); 23 CUBIC FEET PER SECOND AT POINT (3); 10 CUBIC FEET PER SECOND AT POINT (4); AND 12.5 CUBIC FEET PER SECOND AT POINT (5), PROVIDED THAT THE TOTAL QUANTITY DIVERTED IN ANY 30-DAY PERIOD DOES NOT EXCEED 6,600 ACRE-FEET FOR IRRIGATION PURPOSES AND 8,400 ACRE-FEET FOR RECREATION (DUCK POND) PURPOSES. (0000005)

6. THE AMOUNT AUTHORIZED FOR APPROPRIATION MAY BE REDUCED IN THE LICENSE IF INVESTIGATION WARRANTS. (0000006)

7. COMPLETE APPLICATION OF THE WATER TO THE PROPOSED USE SHALL BE MADE ON OR BEFORE DECEMBER 1, 1978. (0000009)

8. PROGRESS REPORTS SHALL BE SUBMITTED PROMPTLY BY PERMITTEE WHEN REQUESTED BY THE STATE WATER RESOURCES CONTROL BOARD UNTIL LICENSE IS ISSUED. (0000010)

9. PURSUANT TO CALIFORNIA WATER CODE SECTION 100, 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.

THIS 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) RESTRICTING DIVERSIONS SO AS TO ELIMINATE AGRICULTURAL TAILWATER OR TO REDUCE RETURN FLOW; (3) SUPPRESSING EVAPORATION LOSSES FROM WATER SURFACES; (4) CONTROLLING PHREATOPHYTIC GROWTH; AND (5) 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. (0000012)

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. (0000011)

11. THE QUANTITY OF WATER DIVERTED UNDER THIS PERMIT AND UNDER ANY LICENSE ISSUED PURSUANT THERETO IS SUBJECT TO MODIFICATION BY THE STATE WATER RESOURCES CONTROL BOARD IF, AFTER NOTICE TO THE PERMITTEE AND AN OPPORTUNITY FOR HEARING, THE BOARD FINDS THAT SUCH MODIFICATION IS NECESSARY TO MEET WATER QUALITY OBJECTIVES IN WATER QUALITY CONTROL PLANS WHICH HAVE BEEN OR HEREAFTER MAY BE ESTABLISHED OR MODIFIED PURSUANT TO DIVISION 7 OF THE WATER CODE. NO ACTION WILL BE TAKEN PURSUANT TO THIS PARAGRAPH UNLESS THE BOARD FINDS THAT (1) ADEQUATE WASTE DISCHARGE REQUIREMENTS HAVE BEEN PRESCRIBED AND ARE IN EFFECT WITH RESPECT TO ALL WASTE DISCHARGES WHICH HAVE ANY SUBSTANTIAL EFFECT UPON WATER QUALITY IN THE AREA INVOLVED, AND (2) THE WATER QUALITY OBJECTIVES CANNOT BE ACHIEVED SOLELY THROUGH THE CONTROL OF WASTE DISCHARGES. 13 (0000013)

12. THE STATE WATER RESOURCES CONTROL 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. (0000080)

13. TO THE EXTENT THAT WATER AVAILABLE FOR USE UNDER THIS PERMIT IS RETURN FLOW FROM IMPORTED WATER, THIS PERMIT SHALL NOT BE CONSTRUED AS GIVING ANY ASSURANCE THAT SUCH RETURN FLOW WILL CONTINUE. (0000025)

14. THIS PERMIT IS SUBJECT TO "STIPULATION BETWEEN APPLICANT RECLAMATION DISTRICT 1004 AND PROTESTANT CALIFORNIA DEPARTMENT OF FISH AND GAME RESOLVING PROTEST" FILED WITH THE STATE WATER RESOURCES CONTROL BOARD ON JANUARY 19, 1973, TO THE EXTENT SUCH STIPULATION COVERS MATTERS WITHIN THE BOARD'S JURISDICTION. (0400500)

15. NO WATER SHALL BE DIVERTED UNDER THIS PERMIT UNTIL PERMITTEE HAS INSTALLED DEVICES, SATISFACTORY TO THE STATE WATER RESOURCES CONTROL BOARD, WHICH ARE CAPABLE OF MEASURING THE RELEASES REQUIRED BY CLAUSE 14 OF THIS PERMIT, THE FLOWS WHICH DETERMINE THOSE RELEASES AND THE ALLOWABLE SPILL AT FIVE POINTS SPILL GATE. SAID MEASURING DEVICES SHALL BE PROPERLY MAINTAINED. (0060062)

16. THE RATES OF DIVERSION AND QUANTITIES OF WATER DIVERTED UNDER THIS PERMIT AND ANY LICENSE ISSUED PURSUANT THERETO SHALL BE INCLUSIVE OF AND NOT IN ADDITION TO THOSE DIVERSIONS TO WHICH PERMITTEE OR OTHERS MAY BE ENTITLED UNDER OTHER RIGHTS FOR USE ON THE AUTHORIZED PLACE OF USE. FAILURE OF PERMITTEE TO MAKE ITS DIVERSION AND USE OF WATER IN COMPLIANCE WITH TERMS AND CONDITIONS OF THE PERMIT WILL BE CAUSE FOR ITS REVOCATION. (0000999)

This permit is issued and permittee takes it **subject to the following provisions of the Water Code:**

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: OCT 27 1975

STATE WATER RESOURCES CONTROL BOARD

R. L. Rosenberger

Chief, Division of Water Rights