STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

ORDER

APPLICATION 28510 PERMIT 20175 LICENSE _____

ORDER APPROVING
A NEW DEVELOPMENT SCHEDULE
AND AMENDING THE PERMIT

WHEREAS:

1. Permit 20175 was issued to Olcese Water District on November 17, 1987 pursuant to Application 28510.

2. A petition for an extension of time within which to develop the project and apply the water to the proposed use has been filed with the State Water Resources Control Board.

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

NOW, THEREFORE, IT IS ORDERED THAT:

1. Condition 9 of the permit be amended to read:

   COMPLETE APPLICATION OF THE
   WATER TO THE PROPOSED USE
   SHALL BE MADE ON OR BEFORE December 31, 2001 (0000009)

Dated: FEBRUARY 05 1992

Roger Johnson

for Edward C. Anton, Chief
Division of Water Rights

STATE OF CALIFORNIA

STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 20175

Application 28510 of Olcese Water District

1415 18th Street, Room 307, Bakersfield, California 93301

filed on July 9, 1985, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

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

1. Source:	Tributary to:
Kern River	Buena Vista Lake

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Town-ship	Range	Base and Meridan
By California Coordinate System Zone 5:	NE¼ of NW¼	6	29S	30E	MD
North 706,715 East 1,761,830					

County of Kern

3. Purpose of use:	4. Place of use:	Section	Town-ship	Range	Base and Meridan	Acres
Power	Rio Bravo Powerhouse within SW¼ of SW¼	1	29S	29E	MD	

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 600 cubic feet per second to be diverted from January 1 to December 31 of each year. (0000005)

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

7. Construction work shall begin within two years of the date of this permit and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked. (0000007)

8. Construction work shall be completed by December 31, 1990. (0000008)

9. Complete application of the water to the authorized use shall be made by December 31, 1991. (0000009)

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

11. 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)

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

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

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. (0000012)

13. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

14. During the season specified in this permit, the rate of water diverted and used under this permit and under permittee's claimed existing right for the place of use specified in the permit shall not exceed the rate of diversion and use specified in this permit. If the permittee's claimed existing right is quantified at some later date as a result of an adjudication or other legally binding proceeding, the rate of diversion and use allowed under this permit shall be the net of the face value of the permit less the amounts of water available under the existing right.

Permittee shall forfeit all rights under this permit if permittee transfers all or any part of the claimed existing right for the place of use covered by this permit to another place of use without the prior approval of the Board.

Permittee shall take and use water under the existing right claimed by permittee only in accordance with law. (0000021)

15. This permit shall not be construed as conferring upon the permittee right of access to the point of diversion. (0000022)

16. For the protection of fish and wildlife, permittee shall during the period from January 1 through December 31 bypass sufficent water to provide a minimum flow of 50 cubic feet per second in the Kern River between the point of diversion and the point of release. The total streamflow shall be bypassed whenever it is less than the designated amount. (0140060)

17. No water shall be diverted under this permit until permittee has installed a device, satisfactory to the State Water Resources Control Board, which is capable of measuring the bypass flow required by this permit. Said measuring device shall be properly maintained. (0060062)

18. For the protection of streamflow water quality, permittee shall comply with the following requirements:

(1) All streambed-related construction shall take place behind coffer dams.
(2) Slopes made bare by project activities shall be covered with mulch or plastic materials to reduce the erosive effects of wind and runoff until new vegetation is established.
(3) All project workers shall be instructed in the safe handling of fuels, solvents and chemicals. Such material shall not be handled in close proximity to the Kern River. (0400500)

19. Prior to any project construction of a land disturbing nature, a survey of the project area shall be conducted by a biologist qualified to recognize the rare Beavertailed (Bakersfield) Cactus. All identified communities of such plant shall be staked and marked with distinctive materials, and a map of the locations shall be prepared. The marked areas shall be avoided by all construction personnel, and no storage of building materials or construction machinery shall occur in or near the sites. If construction activities are unvoidable in close proximity to the marked areas, protective fencing shall be erected to prevent accidental damage to the Beavertailed Cactus as a result of machinery operation or other construction-related activities. (0400500)

20. Prior to construction of project facilities, alignment alternatives shall be considered to reduce the necessity of removing mature trees. (0400500)

21. Areas requiring the removal of groundcover vegetation shall be covered with mulch and replanted as soon as possible following clearing or site preparation activities. (0400500)

22. To prevent the stranding of fish as a result of rapid fluctuations in streamflows, diversion under this permit shall not result in a reduction of the flow rate in the Kern River of greater than 30 cubic feet per second per hour. (0400500)

23. Within six months from the beginning of project operation, and periodically thereafter as determined by the California Department of Fish and Game, representatives of the permittee, the Department of Fish and Game and State Water Resources Control Board shall review the flow conditions of the Kern River downstream of the point of diversion. If noncontiguous flows occur in channels or subchannels of the river, permittee shall carry out streambed modifications as directed by the Department of Fish and Game to insure that the bypass flows required by this permit are apportioned to all river channels. (0400700)

24. Within one year from the date of this permit, permittee shall enter into an agreement with the American Canoe Association which provides for, but is notlimited to, the following:

(1) Upon request from a sanctioned Association race organizer, permittee shall cooperate in the holding of whitewater races on the Kern River within the project area at least once or twice a year. Permittee shall bypass a sufficient quantity of water to provide for adequate course quality for the intended skill level and to meet the objectives of the particular race in accordance with the following schedule:

(a) 1,000 to 1,400 cubic feet per second for races for novice and intermediate boaters only,
(b) 1,400 to 1,800 cubic feet per second for all boater skill groups and for races on the normal Pacific Division of the American Canoe Association race schedule, or
(c) 2,000 to 3,300 cubic feet per second for expert-oriented races and regional and national level races.

Such bypasses shall be made for a sufficient time period, usually three or four days total, to allow for the planning and setup of the course alignment and the running of the race, however, it is not intended that permittee provide flows to the race course in quantities greater than that existing in the Kern River immediately upstream of permittee's point of diversion.

(2) Permittee shall make arrangements with adjacent landowners to allow race competitors and spectators access to the river area in which the races will be held.

(3) Permittee shall make arrangements with adjacent landowners to allow camping, during races, at locations where adequate space and compatible land use exist. Permittee will not be required to provide special facilities associated with the camping, except if specific arrangements are made with the race organizers. (0430700)

25. All persons conducting or supervising project excavation activities shall be informed that the project area may contain buried materials which may have archeological, cultural or historical significance. If any such materials are encountered, all construction activities in the area shall be suspended until a professional archeologist evaluates the find and notifies the Office of Historic Preservation and the State Water Resources Control Board. Excavation activities shall not be resumed until appropriate mitigation measures are developed and implemented in consultation with the above agencies. (0380500)

26. An archeologist shall be present on site to monitor excavation of the subsurface portions of the proposed concrete flume in the vicinity of CA-KER-1107. The archeologist shall periodically examine the areas being disturbed and shall have authority to temporarily halt all work in any area where cultural remains are unearthed. Upon order of the archeologist, construction work in the area shall immediately cease, and the Office of Historic Preservation and the State Water Resources Control Board shall be notified so that any discovery can be evaluated and appropriate mitigation measures developed. Construction work in the area shall not be resumed until appropriate mitigation measures have been developed and implemented in consultation with the above agencies. (0380500)

27. When planning for canoe races or other recreational activities has been completed, and the locations of parking, campsites, outhouses, and other facilities are known, permittee shall consult with an archeologist so that the proposed activities can be designed in a manner that will not impact CA-KER-1107 or any other cultural resource. If the archeologist deems it necessary, permittee shall cap the areas where development is planned with an 8 to 12-inch layer of sterile soil in order to protect the sites from recreation-related impacts. (0380500)

28. Permittee shall, prior to construction, file a Report of Waste Discharge pursuant to Water Code Section 13260 with the California Regional Water Quality Control Board, Central Valley Region, (Regional Board) and shall comply with all Waste Discharge Requirements issued by the Regional Board. If the Regional Board waives issuance of Waste Discharge Requirements, the permittee shall comply with Parts I and II of the "Guidelines for Protection of Water Quality During Construction and Operation of Small Hydro Projects" (Guidelines) as contained in the Water Quality Control Plans of the Central Valley Basin.

Specific requirements set forth in this permit shall prevail over any specific or general requirements in the referenced Guidelines in the event of conflict.

When complying with the Guidelines, pursuant to this condition, the permittee shall not commence construction until the Erosion Control Plan and any baseline data required by the Guidelines have been submitted to and approved in writing by the Regional Board; and before commencing sluicing operations, the permittee shall submit and receive written approval from the Regional Board of the Sluicing Operation Plan. (0000102)

29. Water diverted under this permit is for nonconsumptive use and is to be released to the Kern River within the SW¼ of SW¼ of Section 1, T29S, R29E, MDB&M. (0000111)

30. All rights and privileges to appropriate water for power purposes under this permit and any subsequently issued license are subject to depletions resulting from future upstream appropriation for domestic and stockwatering uses within the watershed. Such rights and privileges under this permit may also be subject to future upstream appropriations for uses within the watershed other than domestic and stockwatering if and to the extent that the Board determines, pursuant to Water Code Sections 100 and 275, that the continued exercise of the appropriation for power purposes is unreasonable in light of such proposed uses. Any such determination shall be made only after notice to permittee or licensee of an application for any such future upstream appropriation and the opportunity to be heard; provided, that a hearing, if requested, may be consolidated with the hearing on such applications. (000I001)

31. No construction shall be commenced and no water shall be used under this permit until all necessary federal, state and local approvals have been obtained, including compliance with any applicable Federal Energy Regulatory Commission requirements. (000J001)

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: NOVEMBER 17 1987

STATE WATER RESOURCES CONTROL BOARD

Walter G. Pettit
Chief, Division of Water Rights