STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

ORDER

Application 29580 Permit 20498 License _____

ORDER APPROVING A NEW DEVELOPMENT SCHEDULE AND ADDING ENDANGERED OR THREATENED SPECIES TERM

WHEREAS:

1. Permit 20498 was issued to Milo Mundt and Marilyn Mundt on February 21, 1991.

2. A petition for an Extension of Time in which to develop the project and apply the water to the proposed use was been filed with the State Water Resources Control Board on December 26, 1995.

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

4. In the event that any fish and wildlife species, which occur in the project area, are determined to be endangered or threatened and are added and protected under the federal Endangered Species Act and/or the California Endangered Species Act, permittee should consult with the appropriate agency to determine if the diversion should be restricted.

NOW, THEREFORE, IT IS ORDERED THAT:

1. A new development schedule is approved as follows:

   Complete application of the water to the proposed use shall be made by December 31, 2006. (0000009)

2. The following paragraph is added to the permit:

   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. (0000014)

Dated: JULY 9 1998

Edward C. Anton, Chief
Division of Water Rights

STATE OF CALIFORNIA
WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 20498

Application 29580 of Milo and Marilyn Mundt

P.O. Box 1188, Magalia, CA 95954

filed on October 2, 1989, 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:
Unnamed Spring	Unnamed Stream thence
	Butte Creek

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
SOUTH 200 FEET AND WEST 1,000 FEET FROM NE CORNER OF SECTION 34	NE¼ OF NE¼	34	24N	3E	MD

County of Butte

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acre
HYDROMECHANICAL POWER						
DOMESTIC	NE¼ OF NE¼	34	24N	3E	MD	

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

WRCB 14 (6-90)

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 0.05 cubic foot per second by direct diversion from January 1 to December 31 of each year for hydromechanical purposes and 2,200 gallons per day by direct diversion from January 1 to December 31 of each year for domestic purposes. The maximum amount diverted under this permit for domestic use shall not exceed 1.2 acre-feet per year. (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 authorized use shall be made by December 31, 1995. (0000009)

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

9. 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)

10. 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)

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. (0000013)

12. During the season specified in this permit, the total quantity and 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 quantity and 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 quantity and 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 State Water Resources Control Board.

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

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

14. The equivalent of the authorized continuous flow allowance for any 7-day period may be diverted in a shorter time, provided there is no interference with other rights and instream beneficial uses, and provided further that all terms and conditions protecting instream beneficial uses are observed. (0000027)

15. Water diverted under this permit for hydromechanical power is for nonconsumptive use and is to be released to an Unnamed Stream thence Butte Creek within the NE¼ of NE¼ of Section 34, T24N, R3E, MDB&M. (0000111)

16. This permit is specifically subject to the prior rights of Arthur J. and Doris C. Graff under appropriations issued pursuant to Applications 28567, 28663 and 29251. (000T001)

***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: FEBRUARY 21 1991

STATE WATER RESOURCES CONTROL BOARD

Roger Ohlum

Chief, Division of Water Rights