STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 21106

Application **30270** of **Delta Wetlands Properties**
3697 Mt. Diablo Blvd., Suite 120
Lafayette, CA 94549

filed on **July 21, 1993**, has been approved by the State Water Resources Control Board (SWRCB) SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

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

1. Source of water

Source:	Tributary to:
(1)(27) to(30) Connection Slough	**Middle River thence San Joaquin River Delta Channels**
(2)(3)to(13) Middle River	**San Joaquin River Delta Channels**
(14)to(16)(31) Santa Fe Dredge Cut	**Old River thence San Joaquin River Delta Channels**
(17) to(26) Old River	**San Joaquin River Delta Channels**

within the County of **San Joaquin**

2. Location of points of diversion and diversion to offstream storage, points of rediversion, and place of storage

By California Coordinate System in Zone 3	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
POINTS OF DIVERSION AND DIVERSION TO OFFSTREAM STORAGE **(1) North 547,400 feet and East 1,692,100 feet**	**NE ¼ of NE ¼**	**Proj. 30**	**T2N**	**R4E**	**MD**
(2) North 546,600 feet and East 1,703,700 feet	**NW ¼ of NW ¼**	**Proj. 27**	**T2N**	**R4E**	**MD**
(3)to(13) eleven points between A & B					
(14) to (16) three points between B & C					
(17) to (26) ten points between C & D					
(27) to (30) four points between D & A					

A. North 548,450 feet and East 1,705,350 feet	**SE ¼ of SW ¼**	**Proj. 22**	**T2N**	**R4E**	**MD**
B. North 526,400 feet and East 1,702,000 feet	**NE ¼ of NE ¼**	**Proj. 16**	**T1N**	**R4E**	**MD**
C. North 526,650 feet and East 1,694,850 feet	**NW ¼ of NE ¼**	**Proj. 17**	**T1N**	**R4E**	**MD**
D. North 548,950 feet and East 1,693,400 feet	**SW ¼ of SW ¼**	**Proj. 20**	**T2N**	**R4E**	**MD**
(31)*North 527,900 feet and East 1,701,800 feet	**SE ¼ of SE ¼**	**Proj. 9**	**T1N**	**R4E**	**MD**
POINT OF REDIVERSION (32) North 486,035 feet and East 1,695,057 feet	**NW ¼ of SE ¼**	**Proj. 20**	**T1S**	**R4E**	**MD**
(33) North 481,100 feet and East 1,694,000 feet	**NE ¼ of SW 1/4**	**Proj. 29**	**T1S**	**R4E**	**MD**
(34) North 539,500 feet and East 1,671,300 feet	**SE ¼ of NE 1/4**	**33**	**T2N**	**R3E**	**MD**
PLACE OF STORAGE					
Offstream Reservoir (Bacon Island)	**SW ¼**	**Proj. 22**	**T2N**	**R4E**	**MD**
	S ½	**Proj. 21**	**T2N**	**R4E**	**MD**
		Proj. 20	**T2N**	**R4E**	**MD**
		Proj. 30	**T2N**	**R4E**	**MD**
		Proj. 29	**T2N**	**R4E**	**MD**
		Proj. 28	**T2N**	**R4E**	**MD**
	W ½	**Proj. 27**	**T2N**	**R4E**	**MD**
		Proj. 33	**T2N**	**R4E**	**MD**
		Proj. 32	**T2N**	**R4E**	**MD**
		Proj. 31	**T2N**	**R4E**	**MD**
	E ¼	**Proj. 6**	**T1N**	**R4E**	**MD**
		Proj. 5	**T1N**	**R4E**	**MD**
		Proj. 4	**T1N**	**R4E**	**MD**
	SW ¼	**Proj. 3**	**T1N**	**R4E**	**MD**
		Proj. 8	**T1N**	**R4E**	**MD**
		Proj. 9	**T1N**	**R4E**	**MD**
	NW ¼ of NW ¼	**Proj. 10**	**T1N**	**R4E**	**MD**

* On-island point of diversion to allow for a new appropriation of water previously diverted onto the reservoir island for irrigation water pursuant to another water right, instead of releasing that water and diverting new water onto the reservoir islands for storage.

3. The purposes of use are Domestic, Irrigation, Municipal, Industrial, and Fish and Wildlife.

4. The place of use is the Central Valley Project Service Area, State Water Project Service Area, and Bay-Delta Estuary, as shown on a map on file with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity, which can be beneficially used. The combined maximum rate under Applications A30270 and A29066 by direct diversion and/or to offstream storage shall not exceed 4,500 cubic feet per second by direct diversion and diversion to storage[1]. The maximum annual amount diverted to storage shall not exceed 147,000 acre-feet per annum. The season of diversion is January 1 to March 31 and June 1 to December 31 of each year.

   The total amount of water to be taken from all sources under Applications A30270 and A29066 shall not exceed 405,000 acre-feet per water year of October 1 to September 30.

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

   mod. (0000005B)(0000005E)(0000005I)

6. Under Applications 30268, 29062, 30270 and 29066 the combined maximum daily average diversion rate shall not exceed 9,000 cubic feet per second and the combined maximum monthly average shall not exceed 4,000 cubic feet per second.

   (0540300)

7. Construction work shall be prosecuted with reasonable diligence and shall be completed by December 31, 2011.

   mod. (0000009)

8. Complete application of the water to the authorized use shall be made by December 31, 2011.

   mod. (0000009)

9. Permittee shall install and maintain devices satisfactory to the SWRCB to measure the rate and quantity of water diverted into the reservoir from each source, and water released from or flowing out of the reservoir.

   (0060046)

10. a. Permittee shall install and properly maintain in the reservoirs continuous recording water stage gages, satisfactory to the SWRCB, for the purpose of determining water levels in the reservoirs.

    b. Permittee shall maintain records of the stage gage readings for five years. Such readings shall be available to the SWRCB and other interested parties.

    mod. (0070047) (0100047)

[1] The rate of direct diversion under Application 30270 shall not exceed 3,000 cubic feet per second.

11. The SWRCB reserves jurisdiction over this permit to change the season of diversion to conform to later findings of the SWRCB concerning availability of water and the protection of beneficial uses of water in the Sacramento-San Joaquin Delta and San Francisco Bay. Any action to change the authorized season of diversion will be taken only after notice to interested parties and opportunity for hearing.

(0000080)

12. This permit is subject to prior rights. Permittee is put on notice that, during some years, water will not be available for diversion during portions or all of the season authorized herein. The annual variations in demands and hydrologic conditions in the Sacramento – San Joaquin Delta are such that, in any year of water scarcity, the season of diversion authorized herein may be reduced or completely eliminated by order of the SWRCB, made after notice to interested parties and opportunity for hearing.

(0000090)

13. a. In order to prevent degradation of the quality of water during and after construction of the project, prior to commencement of construction, permittee shall file a report pursuant to Water Code Section 13260 and shall comply with all waste discharge requirements imposed by the California Regional Water Quality Control Board, Central Valley Region (Regional Board), or by the SWRCB.

b. No water shall be diverted under this permit until permittee has filed a report of waste discharge with the Regional Board, pursuant to Water Code section 13260, and the Regional Board or SWRCB has prescribed waste discharge requirements or has indicated that waste discharge requirements are not required. Thereafter, water may be diverted only during such times as all requirements prescribed by the Regional Board or SWRCB are being met. No point source discharges of waste to surface water shall be made unless waste discharge requirements are issued by a Regional Board or the SWRCB. A discharge to ground water without issuance of a waste discharge requirement may be allowed if, after filing the report pursuant to section 13260:

(1) the Regional Board issues a waiver pursuant to Section 13269, or

(2) the Regional Board fails to act within 120 days of the filing of the report.

No permittee shall be required to file a report of waste discharge pursuant to section 13260 of the Water Code for percolation to ground water of water resulting from the irrigation of crops.

(0000100)(0290101)

14. No construction shall be commenced and no water shall be diverted under this permit until all necessary federal, state and local approvals have been obtained.

(000000J)

15. a. Permittee shall comply with all legally binding requirements of the U.S. Fish and Wildlife Service, National Marine Fisheries Service and California Department of Fish and Game biological opinions on the Delta Wetlands Project required to avoid jeopardy to any listed species under the federal Endangered Species Act (16 U.S.C. §§ 1531-1544). Permittee shall comply with all legally binding requirements of the California Department of Fish and Game 2081 Agreement for the Delta Wetlands Project to minimize and fully mitigate the adverse effects of take of any listed species under the California Endangered Species Act (Fish and Game Code §§ 2050-2098) with respect to the Delta Wetlands Project.

b. This permit does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code §§ 2050-2097) or the federal Endangered Species Act (16 U.S.C.A. §§ 1531-1544). If a take will result from any act authorized under this water right, the Permittee shall obtain authorization for an incidental take prior to construction or operation. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

c. This permit does not authorize any act that results in the taking of any fully protected species under Section 3511 of the Fish and Game Code.

(0000014)(0600300)(0600500)

16. a. Discharges of water from the Delta Wetlands (DW) Project facilities shall not cause an exceedance of any applicable water quality objective in a water quality control plan adopted by the SWRCB or by the Central Valley Regional Water Quality Control Board. Discharges of water from the DW Project facilities also shall not cause any recipient water treatment plant to exceed the maximum contaminant levels for disinfection byproducts set forth in the regulations adopted by the U.S. Environmental Protection Agency to implement the federal Safe Drinking Water Act, as they currently exist or may be amended. (42 U.S.C.A. §§ 300f to 300j-26.) Such regulations are currently set forth at Code of Federal Regulations, title 40, section 141.12, and the maximum contaminant levels are to be measured as set forth at section 141.30 of the above title. Currently, the regulated classes of disinfection byproducts are trihalomethanes, haloacetic acids, chlorite, and bromate.

b. DW Project operations shall not cause or contribute to Total Organic Carbon (TOC) concentrations that violate either of the following criteria: (1) an increase in TOC

concentration at a State Water Project (SWP), Central Valley Project (CVP), or Contra Costa Water District (CCWD) pumping plant in the southern Delta, and at a receiving water treatment plant, that causes TOC concentrations to exceed 4.0 mg/L[2]; (2) a TOC concentration increase at a SWP, CVP, or CCWD pumping plant in the southern Delta greater than 1.0 mg/L. TOC concentrations shall be calculated as a 14-day average. The SWRCB reserves jurisdiction to change the above conditions as necessary after notice to all interested parties and opportunity for hearing. Analytical methods to determine TOC concentration shall conform to the methods specified in Code of Federal Regulations, title 40, section 141.24(e). Samples for TOC analyses shall be collected during normal operating conditions at the entrance point of receiving water treatment plants and at the Delta export pumps. The Permittee may use TOC measurements collected by the water treatment plants and Delta export pump operators, if collected in accordance with the methods described herein.

c. Permittee shall not: (1) cause any increase in chloride concentration of more than 10 milligrams/liter (mg/L) at one or more of CCWD's intakes in the Delta; (2) cause any increase in the 14-day running average salinity of more than 10 mg/L chloride at one or more of the urban intakes in the Delta; or (3) cause or contribute to any salinity increase at one or more of the urban intakes in the Delta if the intake is exceeding 90% of an adopted salinity standard (e.g., Rock Slough chloride standard defined in SWRCB Decision 1641).

d. Permittee shall, prior to February 15 of the first year in which it diverts water to storage, prepare an annual operating plan defining general and short-term operating principles, a comprehensive monitoring program, and long and short-term measures to control loading of total organic carbon to Delta channels. Such operating plan shall be prepared with input from CCWD and shall be provided to the Chief, Division of Water Rights. The operating plan may be revised from time to time, with notice to the interested parties and to the Chief, Division of Water Rights.

e. Prior to February 15 of the first year in which it diverts water to storage, the Permittee also shall prepare and submit to the Chief, Division of Water Rights, a compliance and monitoring plan. No water may be discharged from the reservoirs until the Chief, Division of Water Rights, has approved the compliance and monitoring plan. The Permittee may modify the compliance and monitoring plan with notice to the interested parties, subject to the approval of the Chief, Division of Water Rights. The compliance and monitoring plan shall include detailed documentation to define project operational

[2] For the purpose of determining whether the DW Project has caused or contributed to an exceedance of the 4.0 mg/L threshold, an uncertainty of +/- 5% is assumed, which means that an exceedance does not occur until the DW Project causes a change greater than 0.2 mg/L TOC.

flexibility within the above permit conditions and allow for determination of the cause of any exceedances. The plan shall include the following elements:

- General and short-term operating principles;
- Detailed long- and short-term mitigation procedures;
- A detailed and comprehensive monitoring program for the periods when the DW Project is discharging water that identifies parameters to be monitored, including chloride, bromide, electrical conductivity, dissolved oxygen, modeled channel flow rate, discharge rate, total dissolved solids, turbidity, dissolved organic carbon (DOC), UVA, total organic carbon, and water temperature; sampling locations; sampling frequencies; analytical methods; and quality assurance/quality control procedures in accordance with the analytical methods defined in the SDWA regulations; (40 CFR § 141.135(b).)
- Detailed documentation, with explicitly stated assumptions, of the final predictive computer models (particle-tracking model, water quality model and water treatment model) that Permittee will use for daily management of DW Project operations;
- Compliance measures to be implemented in the event that discharges from the DW Project facilities cause or contribute to an exceedance of the objectives for any of the above parameters.

f. Annually, at the same time that it files its Report of Permittee, Permittee shall file with the Chief, Division of Water Rights a monitoring report containing the monitoring data collected during the discharge periods and a summary of the monitoring data showing the relationship between the measured levels of constituents in the water and the objectives or requirements for the constituents. If a discharge from the DW Project facilities causes or contributes to an exceedance of any applicable objective, Permittee shall immediately notify the Chief, Division of Water Rights, of the exceedance.

g. Thirty days prior to submitting the annual operating plan required by the water quality management plan agreed to by Permittee, CCWD, and California Urban Water Agencies (CUWA), Permittee shall provide CCWD and CUWA a preliminary review draft of the annual operating plan for review and comment. Permittee shall respond to any comments CCWD provides within fifteen (15) days after receiving the draft, and Permittee shall submit CCWD's comments and its responses to the Water Quality Management and Action Board (WQMAB) with its annual operating plan. Permittee shall submit any monthly update of the annual operating plan to CCWD in draft form fourteen (14) days in advance of submitting the update to the WQMAB, and shall respond to any comments CCWD provides within seven (7) days after receiving the

draft. Permittee shall submit CCWD's comments and its responses to the WQMAB with the update.

(0290300)(0300300)(0490999)

17. This permit is subject to the following restrictions:

a. DW Project diversions shall not exceed 1000 cubic feet per second (cfs) when the 14-day running average of X2 is farther than 80 km upstream of the Golden Gate Bridge, nor exceed 500 cfs if the 14-day running average of X2 is farther than 81 km upstream of the Golden Gate Bridge.[3]

b. In no event shall DW Project diversions to storage exceed twenty-five percent (25%) of the Net Delta Outflow Index.[4] DW Project diversions to storage shall not exceed fifteen percent (15%) of Net Delta Outflow in the months of January, February and March. No DW Project diversions to storage shall be made in April and May, nor shall DW Project diversions shift the location of X2 by more than 2.5 kilometers (km) during the months of October, November, December, January, February and March. The resultant shift in X2 shall be determined by a comparison of the modeled estimates of the X2 location, with and without the DW Project, using a mathematical model, e.g., Kimmerer and Monismith equations.

c. Permittee shall not at any time cause an increase in chloride concentration at any of CCWD's intakes of more than 10 milligrams/liter (mg/L).

d. Permittee shall not undertake its initial diversions to storage for the current water year (commencing October 1) until X2 has been west of Chipps Island (75 river kilometers upstream of the Golden Gate Bridge) for a period of ten (10) consecutive days.

(0560900)(0570900)

18. Permittee shall not divert to storage if the Delta is in excess conditions and such diversions cause the location of the 14-day running average of X2 to shift upstream (east) such that X2 is:

a. East of Chipps Island (75 river kilometers upstream of the Golden Gate Bridge) during the months of February through May, or

[3] X2 is the most downstream location of the 14-day running average of a surface water electrical conductivity (EC) of 2.64 mmhos/cm isohaline, determined by interpolating the average daily surface EC measurements at existing Bay-Delta monitoring stations.

[4] The Net Delta Outflow Index shall be calculated as defined in the 1995 Bay-Delta Plan as it may be amended or revised by the SWRCB from time to time, provided that for purposes of DW Project diversions, the Net Delta Outflow calculation shall include the diversions of the DW Project.

b. East of Collinsville (81 kilometers upstream of the Golden Gate Bridge) during the months of January, June, July, and August, or

c. During December, east of Collinsville and Delta smelt are present at Contra Costa Water District's point of diversion under Water Right Permits 20749 and 20750.

(0360900)

19. Any diversion by the DW Project to storage that causes the Delta to change from excess to balanced conditions[5] shall be junior in priority to Permits 20749 and 20750 of the Contra Costa Water District.

(0560900)

20. a. No project-related land-disturbing or resource-disturbing activities shall occur until the Historic Properties Management Plan is developed and approved by the consulting parties to the Programmatic Agreement and implemented by Delta Wetlands.

b. For the protection of historic properties, including prehistoric, historic, and architectural properties, the Permittee shall comply with all requirements in the December 22, 1997 "*Programmatic Agreement Among the U.S. Army Corps of Engineers, California State Water Resources Control Board, California State Historic Preservation Officer, Advisory Council on Historic Preservation and Delta Wetlands Properties Regarding Implementation of the Delta Wetlands Properties Project*", issued under section 106 of the National Historic Preservation Act, and Permittee shall comply with it as amended in the future. The Permittee shall continue to consult with the U.S. Army Corps of Engineers, the SWRCB, the State Historic Preservation Officer, and the Advisory Council on Historic Preservation, until all stipulations of the Programmatic Agreement and resultant Historic Properties Management Plan have been completed to the satisfaction of all the parties. No project-related land-disturbing or resource-disturbing activities will occur until the HPMP is developed and approved by the consulting parties to the PA and implemented by Permittee. Any modifications to the Programmatic Agreement are subject to the approval of the SWRCB. The Permittee shall also comply with the *"Procedure for the Protection of Historic and Cultural Properties"* (36 C.F.R. § 60) and the implementing regulations of the Advisory Council on Historic Preservation, 36 C.F.R. § 800.

c. Permittee shall submit an annual progress report regarding the status of implementation of the Programmatic Agreement to the SWRCB, Chief, Division of Water Rights, until

[5] Excess conditions exist when upstream reservoir releases plus unregulated natural flow exceed Sacramento Valley inbasin uses, plus exports. Balanced conditions exist when the DWR and the USBR agree that releases from upstream reservoirs plus unregulated flow approximately equal the water supply needed to meet Sacramento Valley inbasin uses, plus exports.

such time that the cultural resource work has been completed or these permits are licensed.

d. During development and implementation of the Habitat Management Plans for the islands, the Permittee shall insure that the designs of the habitat management enhancement activities are compatible with the locations of the cultural resources prior to any ground-disturbing activities. If there are any conflicts the cultural resources are to be given priority, in consultations with the consulting archeologists and agencies. In resolving conflicts between cultural resources and habitat management, however, Permittee shall comply with the terms of its agreement with the Department of Fish and Game (DFG) under Fish and Game Code section 2081.

(0400500)(0430300)(0490700)

21. a. Permittee shall not discharge water from the reservoir islands if the water discharged has a dissolved oxygen level of less than 6.0 mg/L or would depress the dissolved oxygen level in the adjacent channel of the Delta to less than 5.0 mg/L, or would depress the dissolved oxygen level in the reach of the San Joaquin River between Turner Cut and Stockton to less than 6.0 mg/L during September through November.

b. Permittee shall develop and present to DFG, USFWS, NMFS and the Chief, Division of Water Rights, a real-time monitoring plan to assure compliance with the dissolved oxygen conditions applicable to discharges of water from the DW Project. Permittee shall not release water from the reservoir islands until the monitoring plan has been approved by the Chief, Division of Water Rights.

(0300300)(0490300)

22. a. To ensure compliance with temperature criteria, Permittee shall prepare a water temperature monitoring plan, in consultation with DFG, NMFS, and USFWS. The plan shall specify the equipment, locations, and frequency of water temperature measurement, and shall specify the method and frequency of reporting. Permittee shall submit the plan to the Chief, Division of Water Rights, for approval a minimum of 90 days prior to the start of DW Project operation. If the plan is not adequate for the measurement and reporting of water temperatures, Permittee shall revise it according to the direction of the Chief, Division of Water Rights.

b. Permittee shall minimize or avoid any adverse effects to water temperature due to discharge from a reservoir as follows: (i) When the temperature differential between the discharge and receiving water is greater than 20° F, there shall be no discharge. (ii) When channel water temperature is 55° F or higher but is less than 66° F, discharge shall not increase channel temperature by more than 4° F. (iii) When channel water temperature is 66° F or higher but is less than 77° F, discharge shall not increase channel

temperature by more than 2° F. (iv) When channel water temperature is 77° F or higher, discharge shall not increase channel temperature by more than 1° F.

c. The SWRCB reserves continuing authority to establish temperature criteria as needed for the protection of fishery resources, if significant water temperature impacts are caused by project operation. Any action taken pursuant to this paragraph will be preceded by notice and an opportunity for hearing.

(0490500)(0540500)(9990600)

23. Prior to filling the DW Project reservoirs above mean sea level, Permittee shall provide the Chief, Division of Water Rights, copies of water service contracts with at least one entity to whom water will be delivered under this permit. For each contract, Permittee shall specify the purposes of use, delineate the place of use, and specify the quantities of water to be used so that the Chief can determine that the water will be placed to beneficial use.

(0490300)

24. Prior to diverting water to storage on Bacon Island, Permittee shall establish, through either a judicial determination or through a signed written agreement with PG&E, that it has a right to construct a reservoir on Bacon Island and begin filling it with water. Permittee shall provide a copy of either the court order or the signed agreement to the Chief, Division of Water Rights before commencing diversions to storage on Bacon Island. Permittee also shall ensure that the following measures are completed:

a. Permittee shall ensure that engineering studies, materials, and construction to securely anchor Line 57A are completed before water is diverted to storage on Bacon Island.

b. Using appropriate equipment during and after levee construction and/or strengthening, Permittee shall ensure that a registered engineer monitors levee settlement and subsidence rates at locations where PG&E's gas pipelines cross Bacon Island levees. Permittee shall ensure that the pipelines are protected from damage due to settlement, subsidence, and construction equipment. During construction and/or strengthening, monitoring shall be conducted twice daily. After levee completion, Permittee shall ensure the conduct of weekly inspections to check for current and potential problems at the gas pipeline crossings, including concerns about levee stability, settlement, and subsidence. If the weekly inspection indicates settlement, erosion, or slumping at the gas pipelines, Permittee shall notify PG&E and shall implement corrective measures to maintain the required levee stability near the gas lines. Commencing on the date when all required approvals for levee construction have been secured, any levee maintenance and/or improvement activities shall be considered to be levee construction or strengthening for the purpose of this condition.

c. Permittee shall implement measures to minimize the risk of pipeline failure during levee construction and/or strengthening. Permittee shall be responsible for maintenance associated with installation of new pipeline segments under Bacon Island levees or implementation of other appropriate measures needed to prevent or repair damage to the gas pipeline due to increased bending or shear loads at levee crossings during levee construction and/or strengthening and settlement or damage due to construction equipment.

d. Permittee shall provide access to PG&E to monitor the construction and/or strengthening activities in the areas of the PG&E pipelines.

e. Permittee shall provide adequate facilities on Bacon Island for PG&E's annual pipeline inspection. Permittee shall provide a suitable ramp and turnaround facilities to launch a boat for regular pipeline inspections, and shall provide a suitable staging area for equipment and materials needed for gas pipeline repairs.

f. Pursuant to consultation with PG&E, Permittee shall relocate the cathodic protection test stations on Bacon Island to the perimeter levee system and shall provide PG&E and the SWRCB access to the relocated cathodic protection test stations. Permittee shall, before relocating the cathodic protection test stations, prepare a plan for the relocation work and submit it to the Chief, Division of Water Rights for approval, and shall provide a copy to a designated representative of PG&E. Permittee shall do the work in accordance with the plan as approved.

g. Permittee, in coordination with PG&E, shall permanently relocate the existing electrical transmission lines on Webb Tract to the improved perimeter levees during project construction. The new or relocated transmission lines would be located along perimeter levees and would be installed overhead near the toe of the new slopes, similar to existing installations. Before temporarily or permanently modifying or relocating existing electrical lines, Permittee shall conduct special-status plant surveys in areas that could be affected by the proposed modifications. If threatened or endangered plant species are found, Permittee shall avoid disturbing those plants when making changes to existing electrical lines.

h. Permittee, in coordination with PG&E, shall extend existing electrical transmission lines on the reservoir islands where needed to serve new siphon and pump stations and recreation facilities. Before modifying existing electrical lines, Permittee shall conduct special-status plant surveys in areas that could be affected by the proposed modifications. If threatened or endangered plant species are found, Permittee shall avoid disturbing those plants when making changes to existing electrical lines.

(0360300)(0400500)(0430300)(0450300)(0490300)

25. a. Permittee shall have the DW Project levees and seepage control system designed and signed off by a licensed professional engineer qualified in the design of levees and seepage control systems in an estuary.

b. Prior to and during commencement of construction, Permittee shall maintain general liability insurance to cover loss arising from Bodily Injury or Property Damage to third parties resulting from the construction of the DW Project, and professional liability insurance for claims arising out of the design of the DW Project as a result of negligent acts, errors or omissions of the design consultants in performing services on the project, for the maximum probable loss, with an aggregate limit of not less than $25 million. This insurance shall be maintained during the term of construction and remain in force for a period of ten years after substantial completion of construction, and shall include a provision requiring the insurer to notify the Chief, Division of Water Rights, if the policy is cancelled or lapses. Permittee shall provide proof of such insurance to the Chief, Division of Water Rights.

c. During the operating life of the DW Project, and as long as it is capable of storing water, Permittee shall maintain a general liability insurance policy in an amount that the insurer deems adequate to pay the maximum reasonable damages that may be caused to owners of property on nearby islands in the Delta or to individuals due to the effects on levee stability, seepage, public utilities, and current land uses in the Delta of the DW Project design, construction, or operation. Permittee shall provide proof of such insurance to the Chief, Division of Water Rights. Such insurance policy shall cover loss arising from Bodily Injury or Property Damage to third parties resulting from operation of the DW Project for the probable maximum loss, with an aggregate limit of not less than $25 million. The insurance policy also shall include a provision under which the insurer reviews the policy every three years to determine whether the amount of insurance is adequate, and shall include a provision requiring the insurer to notify the Chief, Division of Water Rights, if the policy is cancelled or lapses. This term shall not apply to Permittee if Permittee is an agency of the State of California or of the United States.

d. Permittee shall implement seepage control measures as set forth in the Project description, which shall mitigate Impact D-2 in the EIR, including:

(1) No borrow area shall be located closer than 800 feet from the toe of the levee on the reservoir islands when the adjacent islands could be impacted.

(2) Permittee shall install interceptor wells, relief wells or some other engineering design to maintain the hydraulic heads beneath the levees of the adjacent islands within existing conditions.

(0400300)(0490300)

26. a. Permittee shall comply with all terms and conditions set forth in the January 27, 1997 Final Operations Criteria and Fish Monitoring Program approved by the U.S. Fish and Wildlife Service, National Marine Fisheries Service and California Department of Fish and Game pursuant to their responsibilities under the federal and state Endangered Species Acts. If the U.S. Fish and Wildlife Service, National Marine Fisheries Service and California Department of Fish and Game all authorize a change in the Final Operations Criteria, the Permittee shall comply with the criteria as changed.

b. Permittee shall comply with the following fisheries terms and conditions for the protection of Mokelumne salmonids, as set forth below:

(1) Webb Tract Operations: From January 1 to June 30, Permittee's Webb Tract operations shall be in accordance with the following diversion protocol:

(a) Diversions to storage shall be made through the southeastern siphon station, except that only after the southeastern station siphon is operating at full capacity, or in excess of 90% of full capacity due to maintenance and repair, may diversions to storage be made through the northeastern siphon station.

(b) Any reductions in diversions to storage shall first be accomplished by curtailing diversions at the northeastern siphon station. Only after diversions to storage at the northeastern siphon station are reduced to less than 50 cfs shall reductions in diversions begin at the southeastern station.

(c) Permittee may operate the northeastern siphon station only when diversions through the southeastern siphon station are projected to be insufficient to completely fill storage on Webb Tract within a 30-day period. Permittee shall then operate the northeastern siphon station at or below the rates projected to fill said storage by the end of this same 30-day period.

(d) This diversion operations protocol shall not apply (1) if the U.S. Fish and Wildlife Service ("USFWS") determines that delta smelt eggs, larvae, juvenile or adult life stages are at or near the Webb Tract southeastern siphon monitoring stations[6], or (2) if the 3-day running average of salinity or dissolved organic carbon ("DOC") at the northeastern siphon station is more than 10% lower than the 3-day running average of salinity or DOC at the southeastern siphon station. If, however, this 10% salinity/DOC exception occurs more frequently than once every five years, then the diversions at the northeastern siphon station resulting from this exception may not exceed 25 thousand acre feet per year nor exceed a diversion rate of

[6] See the USFWS Final Biological Opinion.

1,375 cfs without express written authorization from East Bay Municipal Utility District (EBMUD).

(e) The diversion operations protocol is not applicable during routine repairs and maintenance of the southeastern siphon station, with such exception limited to a maximum of three days per month.

(f) Any additional siphons or screening capacity constructed by Permittee will be subject to the diversion protocol. Any additional siphons or screening capacity will be added to the southeastern siphon station whenever possible.

(2) Siphon Removal:

(a) Permittee shall limit the number of existing siphons on Bouldin Island to no more than 14. This will require Permittee to remove a number of existing siphons. This reduction shall be applied uniformly around the island. All remaining siphons shall be screened as set forth in the USFWS' Final Biological Opinion.

(b) Permittee shall limit the number of existing siphons on Webb Tract to no more than 7. This will require Permittee to remove a number of existing siphons. This reduction shall be applied uniformly around the island, except that at least 50% of the existing siphons along the San Joaquin River shall be removed so that no more than 4 siphons remain on the San Joaquin River. All remaining siphons shall be screened as set forth in the USFWS' Final Biological Opinion.

(c) Permittee shall complete the above-referenced siphon removal before beginning diversions on Webb Tract under this permit. Permittee shall provide EBMUD with written notice of removal within thirty days of completion of siphon removal.

(0340300)(0400500)

27. a. Permittee shall develop a construction mitigation plan for the reservoir islands following development of detailed project construction schedules, specifications, and plan drawings for construction of project infrastructure, pumps and siphons, enlarged levees, and recreation and other facilities. The plan shall be submitted to SWRCB and DFG for approval. Disagreements between Permittee and DFG during the plan approval process may be submitted to the Chief, Division of Water Rights, for resolution. (Mitigation Measure H-1)

(1) The construction mitigation and monitoring plan shall identify methods to avoid impacts on nesting Swainson's hawks, roosting greater sandhill cranes, and nesting California black rails. These methods shall include conducting preconstruction

surveys to locate nesting and roosting sites of these species and may include measures such as avoiding construction during sensitive use periods.

(2) Elements of the plan shall identify:

- preconstruction survey protocols to locate Swainson's hawk nest sites and greater sandhill crane roosts on reservoir islands and nesting California black rails on the water side of perimeter levees;

- measures to avoid affecting state-listed wildlife species, including restriction of construction activities to areas at least 200 yards from nesting California black rails;

- construction monitoring methods and schedule to be implemented to ensure compliance with the construction mitigation plan; and

- potential remedial measures to compensate for impacts incurred during construction that are not identified in the Habitat Management Plan (HMP).

Following construction, Permittee shall submit a report describing success of the construction impact avoidance measures to the Chief, Division of Water Rights, and DFG.

b. For Bouldin Island, Permittee shall develop a monitoring program in consultation with DFG and the Habitat Management Advisory Committee (HMAC) and implement the program to determine whether airstrip use on hunt days has a deleterious effect on greater sandhill cranes or waterfowl. The plan shall be submitted to the Chief, Division of Water Rights, within one year of issuance of project operation permits. (Mitigation Measure H-2)

The major elements of the monitoring plan shall be:

- criteria for evaluating monitoring data that will be used to determine whether use of the airstrip on hunt days is having a significant impact on greater sandhill cranes and waterfowl,

- criteria for determining appropriate mitigation requirements for offsetting significant impacts based on the level of impact airstrip use has on these species,

- a detailed description of monitoring protocols, and

- a monitoring schedule that estimates when data would be sufficient to determine whether airstrip use on hunt days has significant impacts on greater sandhill cranes or waterfowl.

If, based on monitoring results, airstrip use on hunt days is found to have a significant impact on greater sandhill cranes or waterfowl, DFG, in consultation with the HMAC, may recommend to the Chief, Division of Water Rights, that airstrip use be modified to ensure that the goals for establishment of the closed hunting zone are met. Depending on the level of impact, recommendations could include closing hunting on Bouldin Island during the landing and takeoff period, restricting the number of flights permitted per day, changing the landing and takeoff period to reduce impacts, or closing the use of the airstrip on hunt days. Conversely, if monitoring indicates that there is no significant impact on greater sandhill cranes or wintering waterfowl, DFG, in consultation with the HMAC, could recommend that the proposed initial aircraft use restrictions remain in place or be reduced.

c. Permittee shall retain a qualified biologist to monitor waterfowl use areas on the DW Project islands to locate incidences of waterfowl disease mortalities. Permittee, in cooperation with DFG and USFWS, shall develop management strategies to be employed in the event of disease outbreaks. Upon identification of a disease outbreak, Permittee shall notify DFG and, in cooperation with DFG biologists, implement management strategies to reduce waterfowl mortality. Management actions may include removing carcasses from the Permittee islands, hazing waterfowl from the islands, or draining waterfowl habitats. (Mitigation Measure H-3)

Management strategies shall include descriptions of:

- methods used to monitor waterfowl to detect disease outbreaks,
- protocols for determining when and what types of management actions to reduce the incidence of disease would be implemented,
- methods for collecting carcasses and removing them from affected areas,
- potential locations and methods for disposal of collected carcasses, and
- methods to haze waterfowl from reservoir islands.

d. Permittee shall conduct special-status plant surveys before construction of project facilities and shall site facilities to avoid special-status plant populations. (Mitigation Measure G-1)

e. To mitigate potential indirect impacts of construction, Permittee shall use several measures to protect special-status plants that are within 200 feet of project facility sites. First, the boundaries of each population shall be determined and marked with surveyor's flagging. Second, special-status plants within 100 feet of project facility sites shall be protected by temporary barricades erected 50 feet from the edge of the population nearest to the facility site.

   Plants 100-200 feet from the construction sites shall be identified with brightly colored flagging on vegetation and/or surveyor's stakes that are plainly visible to construction personnel approaching the area occupied by the plants. Flagging shall not be obscured by vegetation. Construction crews and Permittee maintenance personnel must be informed of the presence of the plants, the function of the barricades and flagging, and the strict avoidance requirements.

   Areas that support special-status plant populations shall not be open to recreation. If special-status plant populations are inadvertently affected by construction or recreational uses, Permittee shall contact DFG and negotiate appropriate mitigation to offset impacts. (Mitigation Measure G-2)

f. Permittee, in consultation with SWRCB, DFG, and USFWS, shall develop and implement a plan for mitigating unavoidable impacts on special-status plant populations. No diversion shall be permitted until California Endangered Species Act consultations have been completed, a no-jeopardy opinion has been issued by DFG, and a mitigation plan and mitigation implementation schedule have been approved by the Chief, Division of Water Rights. (Mitigation Measure G-3)

g. This permit is subject to the continued operation and management of the habitat management lands, consisting of approximately 9,000 acres of land on Bouldin Island and on Holland Tract, pursuant to the Habitat Management Plan set forth as Appendix G3 of the draft EIR. (SWRCB 2, App. G3.) This term shall remain in effect, regardless of whether the habitat management lands are owned and operated by Permittee.

   (0340500)(0390300)(0450300)(0450500)(0490500)(0540500)(0600500)(0600300)

28. a. Before doing any construction, including any earth moving activities, Permittee shall conduct an investigation to determine the location and extent of any sites of contamination or pollution on Bouldin Island, Holland Tract, Webb Tract and Bacon Island. The investigation shall include a historical review of the islands, including a history of any above ground or underground tanks, pesticide use and storage, and any sumps, ponds, or landfills that may have received waste. After areas of potential sources of contamination or pollution have been identified, Permittee shall submit to the Regional Board and the County Health Department for San Joaquin County or Contra Costa

County a work plan for a further investigation. The work plan shall include the site history, potential source areas, and an investigation plan (e.g. collect soil samples, groundwater samples, etc.).

b. Permittee shall not use onsite soils for levee construction until the Regional Board has determined that the soils do not pose a threat to water quality.

(0290999)(0390999)

29. Permittee shall operate the DW Project to avoid cumulative hydrodynamic effects in the channels of Middle River and Old River during flows that are higher than historical flows.

(0460800)

30. Permittee shall comply with all legally binding requirements imposed under section 401 of the Clean Water Act. (42 U.S.C.A. § 1341.)

(0430500)

31. Permittee shall comply with mitigation measures B-1, C-1 through C-3, C-8 and C-9, J-1 through J2, L-1 through L-3, N-1, and O-1 through O-5 of the EIR. Permittee shall construct a total of no more than 570 outward (channel-side) boat slips on the DW Project island perimeters.

(0490500)

32. The issuance of this permit does not limit Delta Wetlands' existing water rights on any of its four islands.

(0500300)

33. Permittee shall include in any contract for sale of water a provision that the purchaser must enter into the appropriate statewide memorandum of understanding that guides water conservation practices.

(0340300)

34. a. This permit is junior in priority to any permit or license issued on any application regardless of application date that authorizes the provision of water for beneficial uses within Amador County.

b. This permit is junior in priority to any application filed by the City of Stockton to obtain the water reasonably required to adequately supply the beneficial needs of the Stockton Urban Area or any of the inhabitants or property owners therein.

c. Permittee shall not operate the Delta Wetlands Project reservoir islands if the water quality criteria for salinity in effect pursuant to the "Contract Between State of California

Department of Water Resources and North Delta Water Agency for the Assurance of a Dependable Water Supply of Suitable Quality" dated January 28, 1981, as amended, are not being met, until Permittee can demonstrate, to the reasonable satisfaction of North Delta Water Agency, that DW Project reservoir operations are not adversely affecting salinity levels at any of the monitoring locations established by that Contract.

(0500300)(0450300)

35. a. No diversion is authorized that would adversely affect the operation of the federal Central Valley Project or the State Water Project under permits and licenses for these Projects as they exist at the time of this Order and as they may be amended from time to time. An adverse effect shall be deemed to result from Permittee's diversion when:

(1) the USBR and the DWR have declared the Delta to be in balanced water conditions under the Coordinated Operation Agreement (COA)[7]; or

(2) at any other time the diversion would directly or indirectly require the CVP or the SWP to release water from storage or reduce their diversion or rediversion of water from the Delta in order to provide or assure flow or water quality in the Delta to meet any applicable federal or state law or mandate.

b. When USBR and DWR have declared the Delta to be in excess water conditions under the COA, no diversion is authorized by Permittee greater than the amount of excess water available as reasonably calculated by USBR and DWR.

c. Permittee shall curtail or cease discharges from Delta Wetlands' reservoirs which would directly or indirectly require operations of the SWP or CVP to be modified to meet any applicable federal or state law or mandate.

(0360300)

36. a. No discharge for export under water rights established under this permit is authorized prior to the execution of a formal agreement(s) among USBR, DWR, and Permittee, for surplus Delta export capacity at the SWP and CVP pumping plants and incorporating operations coordination procedures consistent with the Delta Wetlands Operating Criteria and Plan, Endangered Species Act Requirements, Public Law 102-575, Title 34, the 1995 Water Quality Control Plan, the 1986 Agreement Between the United States and State of California for Coordinated Operation of the CVP and SWP and any amendments thereto. The formal agreement(s) shall recognize SWP and CVP pumping priorities, Endangered

[7] Referring to "Agreement Between the United States of America and the Department of Water Resources of the State of California for Coordinated Operation of the Central Valley Project and the State Water Project, November 4, 1986," and as it may be amended.

Species Act requirements and any State or Federal regulatory limitations as well as costs attendant to the export pumping.

b. Before filling the DW Project reservoirs above mean sea level, Permittee shall demonstrate to the satisfaction of the Chief, Division of Water Rights, that the water to be developed by the DW Project can reliably be wheeled.

(0430300)(0490300)

37. The SWRCB retains continuing authority to impose additional terms as needed for drinking water quality protection, including but not limited to increases in Total Organic Carbon concentrations, and levee design and seepage control systems. Continuing authority is also reserved with regard to temperature criteria as needed for protection of fishery resources. Any action taken pursuant to these express reservations of continuing authority will be preceded by notice and an opportunity for hearing.

(0340300)

38. During the season specified in this permit, the total quantity and rate of water diverted, stored, 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, storage, and use, respectively, 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, storage, 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.

(0000021a)

39. This permit shall not be construed as conferring upon the permittee right of access to the point of diversion.

(0000022)

40. To the extent that water available for use under this permit is return flow, imported water, or wastewater, this permit shall not be construed as giving any assurance that such supply will continue. (0000025)

41. If it is determined after permit issuance that the as-built conditions of the project are not correctly represented by the map(s) prepared to accompany the application, permittee

shall, at his expense have the subject map(s) updated or replaced with equivalent as-built map(s). Said revision(s) or new map(s) shall be prepared by a civil engineer or land surveyor registered or licensed in the State of California and shall meet the requirements prescribed in section 715 and sections 717 through 723 of the California Code of Regulations, Title 23. Said revision(s) or map(s) shall be furnished upon request of the Chief, Division of Water Rights.

(0000030)

42. If the storage dam will be of such size as to be within the jurisdiction of the Department of Water Resources as to safety, construction under this permit shall not be commenced until the Department has approved the plans and specifications for the dam.

(0360048a)

43. 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.

(0120050a)

44. In accordance with section 1601, 1603, and/or section 6100 of the Fish and Game Code, no work shall be started on the diversion works and no water shall be diverted under this permit until permittee has entered into a stream or lake alteration agreement with the California Department of Fish and Game and/or the Department has determined that measures to protect fishlife have been incorporated into the plans for construction of such diversion works. Construction, operation, and maintenance costs of any required facility are the responsibility of the permittee.

(0000063)

45. Appropriation of water under this permit for export from the Sacramento River, Mokelumne River, Calaveras River and San Joaquin River Systems is subject to the prior rights of water users within said systems to all of the water reasonably required to adequately supply the beneficial needs within said systems, regardless of when such use is initiated.

(0000095)

46. The issuance of this permit shall not be construed as placing a limitation on any riparian right or decreed right to the waters of Connection Slough, Middle River, Santa Fe Dredge Cut, Old River, or Rock Slough held by permittee.

(0000115)

47. Construction of the storage dam shall not begin until the County Engineer, the United States Soil Conservation Service, or a civil engineer registered by the State of California has approved the plans and specifications for the dam. Construction of the dam shall be under the direction of said approving party.

(000000K2)

48. The SWRCB reserves jurisdiction in the public interest to modify the terms and conditions of this permit, including imposition of requirements to alter project facilities or operations and to modify instream flow releases, in the event of unforeseen adverse impacts to fish or wildlife. Board action will be taken only after notice to interested parties and opportunity for hearing.

(000000M)

49. The Permittee shall obtain all necessary state and local agency permits required by other agencies prior to construction and diversion of water. Copies of such permits and approvals shall be forwarded to the Chief, Division of Water Rights.

(0000203)

50. An erosion control/revegetation plan and implementation schedule, prepared by a licensed civil engineer, shall be submitted to and approved by the Chief, Division of Water Rights, prior to starting construction. Before storing water in the reservoir, Permittee shall furnish evidence which substantiates that the erosion control/revegetation plan has been implemented. Evidence includes photographs showing the project area vegetation and slopes.

(0000207)

51. No debris, soil, silt, cement that has not set, oil, or other such foreign substance will be allowed to enter into or be placed where it may be washed by rainfall runoff into the waters of the State. When operations are completed, any excess materials or debris shall be removed from the work area.

(0000208)

52. In accordance with Section 6100 of the Fish and Game Code, no work shall be started on the diversion works and no water shall be diverted under this permit until permittee has implemented measures to protect fishlife. Such measures shall include fish screens, or other suitable methods for the prevention of entrainment or impingement of fish, which meet National Marine Fisheries Service and California Department of Fish and Game criteria. Permittee shall provide certification that its proposed screening methods meet these criteria. Certification shall be made by Service or Department personnel, a Licensed Civil Engineer, or other suitable professional. Construction, operation, and maintenance of any required facility are the responsibility of the permittee. If the fish

entrainment prevention device(s) is(are) rendered inoperative for any reason, all diversions shall cease until such time as the device(s) is(are) restored to service.

In accordance with section 1601 and/or section 1603 of the Fish and Game Code, no work shall be started on the diversion works and no water shall be diverted under this permit until permittee has entered into a stream or lake alteration agreement with the California Department of Fish and Game. Permittee shall submit a copy of the agreement to the Division of Water Rights within 30 days from the date of the agreement's issuance. Construction, operation, and maintenance necessary to meet the terms of the agreement are the responsibility of the permittee.

(0000213)

53. No water shall be diverted under this permit except through a fish screen on the intake to the diversion structure, satisfactory to meet the physical and operational specifications of:

a. the California Department of Fish and Game to protect delta smelt, winter-run chinook salmon, and spring-run chinook salmon, listed as endangered or threatened under the California Endangered Species Act (Fish and Game Code sections 2050 to 2089);

b. the United States Fish and Wildlife Service to protect delta smelt and splittail, listed as endangered or threatened under the federal Endangered Species Act (16 U.S.C.A. sections1531 to 1544); and

c. the National Marine Fisheries Service to protect winter-run chinook salmon, spring-run chinook salmon and the Central Valley steelhead Evolutionarily Significant Unit (ESU), listed as endangered or threatened under the federal Endangered Species Act (16 U.S.C.A sections 1531 to 1544).

Construction, operation and maintenance costs of the required facilities are the responsibility of the permittee.

mod. (0000214)

54. Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archeological indicators include: obsidian and chert flakes and chipped stone tools; bedrock outcrops and boulders with mortar cups; and locally darkened midden soils containing some of the previously listed items plus fragments of bone and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic and metal objects; milled and split lumber; old trails; and structure and feature remains such as building foundations and dumps. The Chief of the Division of Water Rights shall be notified of the discovery and a professional archeologist shall be retained by the applicant to evaluate the find and recommend

appropriate mitigation. Project related activities in the area of the find shall resume only after the completion of the recommended mitigation, as approved by the Chief of the Division of Water Rights.

(0000215)

ALL PERMITS ISSUED BY THE STATE WATER RESOURCES CONTROL BOARD ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

A. Permittee shall maintain records of the amount of water diverted and used to enable SWRCB to determine the amount of water that has been applied to beneficial use pursuant to Water Code section 1605.

(0000015)

B. The amount authorized for appropriation may be reduced in the license if investigation warrants.

(0000006)

C. Progress reports shall be submitted promptly by permittee when requested by the SWRCB until a license is issued.

(0000010)

D. Permittee shall allow representatives of the SWRCB and other parties, as may be authorized from time to time by said SWRCB, reasonable access to project works to determine compliance with the terms of this permit.

(0000011)

E. 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 SWRCB 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 SWRCB 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 SWRCB 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 SWRCB 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 State Water Resources Control 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)

F. 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 State Water Resources Control 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 State Water Resources Control 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)

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: JUN 5 2001

STATE WATER RESOURCES CONTROL BOARD

Harry M. Schueller, Chief
Division of Water Rights