STATE OF CALIFORNIA

STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 28158	ORDER: WR 89-19
CAMBRIA COMMUNITY SERVICES DISTRICT, Applicant,	SOURCE: Santa Rosa Creek
	COUNTY: San Luis Obispo
DEPARTMENT OF FISH AND GAME, RANCHO PACIFICA, LAWRENCE MOLINARI et al., Protestants.	

ORDER AMENDING DECISION 1624
IN RESPONSE TO PETITION FOR RECONSIDERATION

BY THE BOARD:

1.0 **INTRODUCTION**

The Board having issued Decision 1624 on April 20, 1989; Decision 1624 having authorized issuance of a permit on water right Application 28158 subject to specified terms and conditions; Cambria Community Services District having filed a petition for reconsideration on May 19, 1989; the Board having issued Order WR 89-15 directing that Decision 1624 be reconsidered; and the issues raised by the petition for reconsideration having been duly considered; the Board finds as follows:

2.0 **GROUNDS FOR RECONSIDERATION**

Section 768 of Title 23 of the California Code of Regulations provides that reconsideration of a Board

decision or order may be requested for any of the following causes:

a. A procedural irregularity which has prevented the petitioner from receiving a fair hearing;

b. The decision is not supported by substantial evidence;

c. There is relevant evidence available which, in the exercise of reasonable diligence, could not have been produced at the hearing; or

d. An error in law.

3.0 **SUMMARY OF PETITION**

Cambria Community Services District (District) filed a petition for reconsideration of Decision 1624 on the basis that certain provisions of the decision are not supported by substantial evidence and on the basis that new evidence has become available since the May 1987 hearing. The District requests that the board augment the record with additional evidence not available at the hearing and that the Board modify certain provisions of the decision. The most significant requested modifications concern: (1) surface flow

monitoring requirements established in connection with fishery mitigation measures; (2) restrictions placed upon District diversions based upon monitoring subsurface water elevation and water quality to prevent sea water intrusion; and (3) restrictions on District pumping established to prevent further ground deformation.

With respect to surface flow monitoring, the District asks that the Board allow use of the new "Main Street gage", upstream of the District's point of diversion, for monitoring the minimum stream flow requirements upon which District diversions are conditioned. This gage was installed by the County of San Luis Obispo after the 1987 Board hearing. Decision 1624 presently specifies that the required level of surface flow is to be measured at an existing gage near the Highway 1 Bridge, downstream of the District's point of diversion. In addition to requesting that the Board approve use of the Main Street gage, the District asks that the Board delay imposition of the surface flow monitoring requirement until a radio hookup is established to transmit flow measurements from the Main Street gage to the County of San Luis Obispo Engineering Department. The District further requests that the relevant findings in Decision 1624 be modified

to provide support for the requested revisions in the order portion of the decision concerning measuring and monitoring of surface flow.

The second area in which the District requests that Decision 1624 be modified concerns the subsurface water elevation and water quality criteria established as restrictions upon District diversions from Santa Rosa Creek. In support of the requested modifications, the District has submitted information showing that certain subsurface water elevation data which it previously submitted are erroneous. In addition, the District contends that the electrical conductivity and chloride concentration standards established in Decision 1624 are arbitrary and not supported by substantial evidence in the record. The District requests that the Board allow the District a two-year period to monitor water quality before determining what standards are appropriate.

The third major area in which the District requests modification concerns the provisions of Decision 1624 directed at preventing ground deformation. The District disputes the relationship between subsurface pumping and subsidence and suggests that District pumping should be curtailed in the future only when the

District's ground deformation monitoring program concludes that subsidence is the result of District pumping.

Each of the subjects described above and several minor issues raised by the District and other parties are discussed in Sections 6.0 through 6.6 of this order.

4.0 AUGMENTATION OF RECORD

Following receipt of the petition for reconsideration, parties were notified of the Board's intention to augment the record in this matter to include additional evidence as designated below:

District Exhibit 24a: Paragraphs 1, 2, 3, 4, 6, and 7 of the May 15, 1989 affidavit of Kenneth D. Schmidt submitted in support of the petition for reconsideration.

District Exhibit 24b: Well logs for State Well No. 27S/8E-22N2 and State Well No. 27S/8E-27C1, attached to the May 15, 1989 affidavit of Kenneth D. Schmidt.

District Exhibit 25a: Paragraphs 1, 4, 5, 6, and 7 of the May 17, 1989 affidavit of John R. Stratford submitted in support of the petition for reconsideration.

District Exhibit 25b: North Coast Engineering report on well elevations and measurements of Santa Rosa Creek well water levels from August 28, 1987 to May 1, 1989, attached to the May 17, 1989 affidavit of John R. Stratford.

Staff Exhibit 21: Memo to File dated June 1, 1989 regarding Lower Streamflow Gage, Santa Rosa Creek.

Staff Exhibit 22: Chemistry of Well 21R3, EPA Storet Retrieval.

Parties were given an opportunity to file written objections to the proposed additional exhibits and were requested to specify the precise reasons for any objections. No such objections were received. Therefore, the record of this proceeding is augmented to include the above-designated exhibits.

5.0 RESPONSES FILED IN OPPOSITION TO PETITION FOR RECONSIDERATION

Written responses to the petition for reconsideration were filed by the Coastal Residents United, protestants Lawrence Molinari, et al., Rancho Pacifica, and the California Department of Fish and Game (Department). Coastal Residents United and Lawrence Molinari, et al., oppose any substantial modification of the requirements set forth in Decision 1624 based on the information presently available. Coastal Residents United and Molinari, et al., however, do acknowledge the possibility that modifications in certain requirements established by Decision 1624 may be appropriate in the future if such modifications are supported by adequate technical data.

Rancho Pacifica opposes the petition for reconsideration, specifically with respect to the District's proposal to change the existing restrictions on District pumping which are based upon subsurface water levels. Rancho Pacifica also opposes the District's proposal to rely upon a different streamflow gage for monitoring the surface flow bypass requirements specified by Decision 1624.

The Department of Fish and Game supports Decision 1624 as entered. The Department opposes revisions to the

restrictions on District pumping which are based upon subsurface water elevations. The Department argues that, in addition to protecting water quality, the present restrictions serve to maintain the water conditions in the lagoon at the end of Santa Rosa Creek which are necessary for the survival of a species of fish named the tidewater goby.[1] The Department also opposes the District's request to change the findings of Decision 1624 with respect to the conditions required for upstream and downstream movement of steelhead trout between Santa Rosa Creek and the Ocean during November through May. Finally, the Department states that the technology to comply with the monitoring requirements of Decision 1624 is available and that the District should proceed with installing the equipment necessary to comply with the decision.

6.0 ANALYSIS OF ISSUES RAISED BY PETITION FOR RECONSIDERATION

6.1 Modification of Surface Flow Monitoring Requirements

Condition 8 of Decision 1624 restricts the District's diversion of water to 2.0 acre-feet per day from November 1 through April 30 when the average daily surface flow at the Highway 1 gage is between 2.5 and

---

1 The Department of Fish and Game reports that the tidewater goby (Eucyclogobius newberryi) is a candidate for listing on the federal endangered species list. The Department learned of the presence of the tidewater goby in the Santa Rosa Creek lagoon during October 1988, following the 1987 Board hearing on Application 28158.

10.0 cubic feet per second (cfs). When the average daily surface flow is less than 2.5 cfs from November 1 through April 30, District diversions are limited to 1.4 acre-feet per day. The District requests that Conditions 8, 9 and 11 be modified to allow the District to use the Main Street gage rather than the Highway 1 gage. The District also requests that the Board delay the flow monitoring requirement until the County of San Luis Obispo has completed their radio hookup for the Main Street gage.

In support of these requested modifications, the District stresses that both the Highway 1 gage and the Main Street gage are owned and operated by the county, that the lower (i.e., Highway 1) gage is unreliable due to erosion and changes in stream profile, that the county has decided to conduct its measurements at the upper (i.e., Main Street) gage, and that the County will have radio relay flow readings of the Main Street gage available on a real-time basis rather than the once-per-year summary now provided for the Highway 1 gage.

With respect to the subject of the county's plans to replace the Highway 1 gage, the Board notes that the holder of an appropriative water right normally is responsible for complying with the terms of the permit

or license irrespective of the actions of other parties. It is common to require an appropriator to maintain streamflow gages as a condition of a permit or license. In this case, the rates of diversion specified in Decision 1624 are dependent upon the presence of certain levels of flow in Santa Rosa Creek below the District's point of diversion. If the District can obtain satisfactory flow measurements from the County to ensure compliance with the conditions specified in Decision 1624, that certainly is acceptable. The County has advised Board staff that it will perform routine maintenance and continue to operate the Highway 1 gage as long as requested to do so by the District. (Staff 21.) The fact that the County does not intend to further improve the Highway 1 gage or to correct erosion problems near the gage, however, does not excuse the district from taking whatever steps are necessary to comply with the provisions of Decision 1624 regarding instream flows in the vicinity of the Highway 1 gage.

On the other hand, if the District can demonstrate that the Main Street gage can provide accurate information on downstream flows, then the Board would have no objection to relying upon measurements from that gage. As discussed below, however, the District should be

required to demonstrate the correlation between measurements at the two gages.

The basis for regulating the District's diversions based on the rate of flow in Santa Rosa Creek is that District diversions could adversely affect riparian vegetation and flows necessary for successful steelhead spawning. The reason for requiring a gage to be located downstream of a point of diversion is to monitor the level of downstream flow after accounting for the effect of the appropriator's diversion. Unless the flow requirements specified by Decision 1624 can be revised to accurately reflect the potential changes in flow between the Highway 1 and Main Street gage locations, reliance on the Main Street gage would result in failure to account for the effect of the District's diversions on downstream flows.

In some circumstances, it may be possible to establish a close correlation between flows above a particular point of diversion and flows below that point, and adjust the instream flow requirements to allow use of an upstream gage to monitor projected instream flow levels below the downstream point of diversion. In this instance, establishing a correlation between the Main Street gage and the Highway 1 gage is made more difficult by the fact that the District diverts from

the underflow rather than from surface flow and by the fact that the relationship between surface flow and subsurface flow in Santa Rosa Creek is subject to a number of variables, not all of which are well defined.

As a practical matter, the Board recognizes that there would be advantages to relying upon the Main Street gage due to less erosion and resulting repair work and due to the fact that the county already plans to install radio telemetry to provide continuous stream flow information. If the District wants to rely upon the Main Street gage on a long-term basis, it should develop data over at least a three-year period correlating the flows reported at the Main Street and Highway 1 gages under various conditions and at various rates of pumping by the District and others.

In the interim period, the Board will permit the District to rely upon flow measurements at the Main Street gage only if the downstream flow rates specified in Decision 1624 are modified to account for the potential effect of District pumping. The maximum rate of diversion authorized under Decision 1624 is 2 acre-feet per day which is approximately equal to a continuous 24-hour flow of 1 cubic foot per second. Adding 1 cubic foot per second to the instream flow rates specified in Decision 1624 would result in

restricting the District to diversions of 2.0 acre-feet per day when flow at the Main Street gage is between 3.5 and 11.0 cubic feet per second. District diversions would be limited to 1.4 acre-feet per day when the flow at the Main Street gage is less than 3.5 cubic feet per second. The Board concludes that, until a satisfactory flow correlation is established, the District should be given the option to regulate its diversions based on the flow levels at the Highway 1 gage as specified in Decision 1624, or based on flow levels at the Main Street gage as discussed in this order.[2]

6.2 Maintaining Minimum Water Elevation In Monitoring Well to Protect Against Sea Water Intrusion

Decision 1624 concluded that the historic minimum water levels in the vicinity of well 21R3 should be maintained as a protection against sea water intrusion. Testimony from the District indicated that the water table in the vicinity of well 21R3 had never fallen below five feet above mean sea level. The District requests that Condition 5c of Decision 1624 be revised to provide that the District must cease diversions if the water level in the monitoring well in the vicinity

2 The Board notes that in order to establish a correlation between flows at the Main Street gage and the Highway 1 gage, it would not be necessary to provide "real-time" reporting of the Highway 1 gage via radio telemetry. Rather, the correlation can be based upon recorded daily flows at both gages even if the data from one gage is not immediately available.

of well 21R3 reaches two feet above mean sea level rather than the five feet elevation now specified.

The first justification offered for the proposed change is that the testimony and exhibit the District presented at the hearing regarding water level elevations in well 21R3 is erroneous. After the hearing, an independent surveyor determined that the top of well 21R3 is 12.88 feet above mean sea level rather than 15 feet above mean sea level as stated at the hearing. Based on this corrected elevation, the District determined that the water level in well 21R3 actually dropped as low as three feet above mean sea level for at least one period between 1965 and 1977, with no resulting sea water intrusion. Measurements taken since August 28, 1987 show that on 22 occasions the water level in well 21R3 has been below five feet above mean sea level. In view of the additional evidence presented by the District, the Board concludes that maintaining a water level in the vicinity of well 21R3 at three-feet above mean sea level is reasonable and will protect against deterioration in subsurface water quality.

In addition to requesting that the required water level in the vicinity of well 21R3 be lowered to reflect the correct historic levels, the district requests that the

required minimum water level be lowered further to the elevation of two feet above mean sea level. In support of its request, the District asks that the Board take official notice of the Ghyben-Herzberg principle which applies to ground water hydrology in coastal areas. The Ghyben-Herzberg principle states that every one foot of fresh ground water above sea level maintains 40 feet of fresh water below sea level. A test hole drilled by the U. S. Geological Survey shows that bedrock in the coastal area near Santa Rosa Creek was encountered at 60 feet below the land surface. Based on an assumed depth to bedrock of 60 feet and the Ghyben-Herzberg principle, the District argues that maintaining 1.5 feet of fresh water above mean sea level would be sufficient to prevent sea water intrusion.

In evaluating the District's contentions, the Board first notes that paragraph "a" of Condition 5 of Decision 1624 calls for constructing a new monitoring well in the vicinity of well 21R3 within six months of the issuance of a water right permit. Following construction of that monitoring well, the actual depth to bedrock in the alluvium of Santa Rosa Creek at the monitoring location will be known. At that time, the appropriate water elevation to be maintained in the

monitoring well can be established based upon the depth to bedrock and an acceptable hydrologic analysis. In making such an analysis, it is important that the depth to bedrock as determined at the monitoring well represents the level of bedrock at the deepest portion of the alluvium. Therefore, the location of the new monitoring well should be subject to the approval of the Chief of the Division of Water Rights.

In summary, Condition 5c of Decision 1624 should be amended to require that, on an interim basis, the District be required to maintain water levels in the area of well 21R3 at or above the historic low level of three-feet above mean sea level. The Chief of the Division of Water Rights should be authorized to adjust the three-foot elevation if the District submits information showing the actual depth to bedrock in the new monitoring well and a hydrologic analysis showing the amount of freshwater head needed in the well to prevent seawater intrusion.[3]

3 The District requests that the Board take official notice of the Ghyben-Herzberg principle. (Statement of Points and Authorities in Support of Petition for Reconsideration, p. 6.) Since the Board is not lowering the water level elevation requirement in the monitoring well below three feet above mean sea level at this time, it is unnecessary to take official notice of the Ghyben-Herzberg principle for purposes of this order. In authorizing the Chief of the Division of Water Rights to adjust the water elevation requirements in the monitoring well based upon additional data which may be submitted in future, the Board assumes that the Division Chief will make use of generally accepted principles of hydrology and methods of hydrologic analysis.

6.3 Revision of Electrical Conductivity and Chloride Standards

Condition 5 of Decision 1624 requires the District to analyze the chloride content and electrical conductivity of water from the monitoring well in the vicinity of well 21R3 on a monthly basis. When the water level in permittee's well 1 is below mean sea level, the District is to analyze chloride content and electrical conductivity on a weekly basis. Subsection c of Condition 5 requires the District to stop diverting water if the electrical conductivity measurement exceeds 1600 micromhos per centimeter, or if the chloride content exceeds 250 parts per million. Section 5.5.3 of the findings in Decision 1624 explains that these numbers represent the upper level for electrical conductivity and the recommended limit for chloride content of drinking water as recommended in the California Drinking Water Standards. The upper level for electrical conductivity was determined to be appropriate because the conductivity of subsurface water in the lower Santa Rosa Creek subbasin naturally exceeds the "recommended" standard of 800 micromhos per centimeter.

The District asks that Decision 1624 be modified to allow the District to collect water quality data from

the monitoring well to be used in setting appropriate water quality standards to protect against seawater intrusion. The District argues that there is insufficient background data to use as a basis for setting salinity standards. The District also argues that the record does not establish any relationship between electrical conductivity or chloride concentration at the monitoring well and the water quality at the other wells in the watershed.

Examination of water quality data for well 21R3 shows that between 1959 and 1977, the chloride concentrations exceeded the standard set in Decision 1624 in 1961, 1969, 1970, 1976 and 1977. The District suggests that the high concentrations during 1961 and 1969 were due to seepage of lagoon water into the well rather than subsurface sea water intrusion. The electrical conductivity standard specified in Decision in 1624 was exceeded in 1961, 1969, 1970, 1975, 1976 and 1977. (Staff, 22.) Although the data provide an historical record of water quality in the area of well 21R3, the most recent data are over 12-years old. Therefore, the Board agrees that it would be reasonable to allow the District a two-year period to measure water quality in the monitoring well to establish present water chemistry. The Board further finds that, following

receipt of water quality data for a two-year period, the Chief of the Division of Water Rights should be authorized to establish chloride concentration and electrical conductivity standards for regulation of District diversions. Condition 5 of Decision 1624 should be amended in accordance with these findings.

6.4 Monitoring of Ground Deformation

Decision 1624 recognized the problems caused by subsidence in the Cambria area in 1976, including fractures in structures and road surfaces, and breaks in water, sewer and gas lines. The decision cited a 1980 study by geologist George Cleveland which linked the ground deformation to record low levels in the District's well field. Therefore, the Board required the District to develop and submit a ground deformation monitoring program, to monitor for vertical ground deformation on a weekly basis when the static water level in well 1 or well 3 falls below 15 feet below mean sea level. Decision 1624 also provides that the District must stop diversions when vertical ground deformation exceeds the limit to be established in the ground deformation monitoring program.

The District requests that Decision 1624 be revised to recognize that ground deformation can occur due to

reasons other than pumping subsurface water and that the District be required to cease diversions only when District pumping has caused a deformation problem. The District also asks that Decision 1624 state that the required ground deformation monitoring program be designed to establish "whether there is a connection between ground deformation and District pumping." (Statement of Points and Authorities in Support of Petition for Reconsideration, p. 8.)

The 1980 study of ground deformation in the Cambria area referred to in Decision 1624 recognizes a clear relationship between lower ground water levels and the ground deformation which occurred in 1976. There is no evidence in the record of any other cause of the undisputed ground deformation. Since District diversions were responsible for most of the water table decline, it was reasonable for the Board to conclude that there was a definite relationship between District pumping and ground deformation. Condition 6 of Decision 1624 requires establishment of a ground deformation monitoring program and cessation of diversions when vertical ground deformation exceeds the limit established in the program. If vertical ground deformation occurs in the future, and if the District can establish that it is for reasons totally unrelated

to District pumping, then the District could request relief from restrictions on District pumping imposed by Condition 6 of Decision 1624. In the absence of evidence establishing that District pumping has no effect on ground deformation in a particular instance, however, it would be unreasonable to allow continued District pumping if vertical ground deformation exceeds the limit established in the monitoring program. Based on the information presently available, the Board concludes that the findings of Decision 1624 regarding ground deformation are supported by the record, that the District has offered no evidence to refute those findings, and that the provisions of the decision regarding ground deformation should not be modified.

6.5 Proposed Modification of Findings Regarding Instream Flows for Fish

Decision 1624 recognizes that steelhead trout are an important fishery resource in Santa Rosa Creek and that the lower reaches of the stream provide a migration corridor to and from the ocean for smolts and adult steelhead. The decision finds that steelhead require unimpeded passage from the ocean to the middle and upper reaches of the creek from November to the first part of May. Condition 10 of the decision requires that the District initiate an instream flow study approved by the Department of Fish and Game to

determine the "critical riffle" for steelhead in the reach of the stream affected by the permittee's diversion and the volume of streamflow required to pass migrating steelhead through the affected reach. Condition 11 requires the District to monitor the sandbar at the mouth of Santa Rosa Creek, to record average daily flows at the Highway 1 gage during the week the sandbar opens and closes, and to submit a report of monitoring records to the Chief of the Division of Water Rights. The decision reserves jurisdiction to modify bypass flow requirements in the event of unforeseen adverse impacts to fish and aquatic resources.

The District does not dispute the conditions set forth in the order portion of Decision 1624 regarding the instream flow study and monitoring requirements. However, the District requests modification of the statement in Section 6.2 of the findings of Decision 1624 that the "sandbar probably closes within a month or two to several months after the flow in the creek ceases." The District also requests that the Board add additional findings to the decision with respect to when the sandbar at the mouth of the stream opens and closes and how the sandbar dynamics affect steelhead migration.

The Board acknowledges that the testimony regarding the opening and closing of the sandbar was conflicting. The instream flow study called for by Decision 1624 will provide much more information on the subject and should reduce the present uncertainty regarding the dynamics of the sandbar and flows needed for steelhead migration. In view of the uncertainty and lack of information at present, the Board declines to make the revisions to the findings of Sections 6.1 and 6.2 of Decision 1624 as requested by the District. In recognition of the uncertainty regarding the sandbar dynamics, however, the Board concludes that the second and third complete sentences at the top of page 37 in Section 6.2 of Decision 1624 should be deleted.

6.5 Other Issues Raised By District

The District attached as "Exhibit A" to its Statement of Points and Authorities a revised version of the order portion of Decision 1624 which shows the changes in wording requested by the District. In addition to the issues discussed above, the District's "Exhibit A" shows two suggested revisions to the order.

The first suggested revision would change the wording of the first sentence of the second paragraph of Condition 7 (Decision 1624, p. 7). In effect, the

requested revision would make the District's responsibility to protect the water supplies of specified riparian owners conditional upon some further showing that District pumping was the cause of declining water levels in the riparian wells. The issue of the effect of District pumping on specified riparian diversion wells is addressed on pages 29 and 30 of Decision 1624 which concluded that District pumping impacts water levels in wells westward to the coast and eastward to well 24L2. The District offers no justification or explanation for its suggested revision of Condition 7 or for changing the Board's finding that District pumping affects water levels in nearby wells. To revise Condition 7 as suggested by the District would serve only to confuse the meaning of Condition 7 and provide a basis for future disputes.

The other suggested revision indicated in the District's "Exhibit A" would authorize the Board to increase the amount of water authorized for appropriation by the District if the U. S. Geological Survey study provides evidence that additional water is available. Ordinarily, any increase in the quantity of water available for diversion by an appropriator requires a new application. Additionally, in this case, the District's resolution certifying the

Environmental Impact Report reduced the amount of water to be diverted as part of the District's project. (Cambria Community Services District, Board Resolution 32-87). To increase that amount would require further environmental documentation in accordance with the California Environmental Quality Act (Public Resources Code Section 21000 et seq.).

6.6 Endangered Species

The Department of Fish and Game submitted a memorandum in response to the petition for reconsideration. The Department's memorandum supports Decision 1624 as entered and advises the Board of the presence of a fish named the tidewater goby (Eucyclogobius newberryi) found in the brackish lagoon at the mouth of Santa Rosa Creek. The Department also advises the Board that the tidewater goby is a candidate for listing on the federal endangered species list, that the tidewater goby has been found in two of the three small pools near the mouth of Santa Rosa Creek and that the survival of the tidewater goby population depends on the continued existence of the small pools.

The Department recognizes that the Decision 1624 requirement to maintain the monitoring well elevation at 5 feet above mean sea level was based upon evidence

indicating that 5 feet is the lowest historic water level elevation in the area of the monitoring well. As discussed in Section 6.2 above, however, the 5 feet above mean sea level elevation was based upon an erroneous measurement of the well elevation. More recent information indicates that the lowest water elevation in the past has been at about 3 feet above mean sea level. Therefore, revising the water elevation requirement specified in Decision 1624 to more accurately reflect past conditions as discussed in Section 6.2 above, should not result in a worsening of conditions affecting the tidewater goby.

In the event that the District requests authorization to reduce the water elevation to below historic levels, the Board agrees that the District's permit should be conditioned to provide appropriate protection for the tidewater goby. There is no information in the record from which to determine specific protective measures that may be appropriate, but determining such measures at this time is not necessary. The Board takes official notice of the fact that the tidewater goby is a candidate species for the federal endangered species list. In order to ensure that any potential modification in the District's water right on Santa Rosa Creek does not endanger the tidewater goby, the Board concludes that any future modification in the

monitoring well water elevation requirements should be conditioned upon consultation with the Department of Fish and Game and compliance with applicable provisions of state and federal law.

7.0 CONCLUSION

Based upon the Board's review of the petition for reconsideration, the responses to the petition, and the additional evidence discussed above, the Board concludes that certain findings and permit conditions specified in Decision 1624 should be modified as set forth in the following order. With the exception of the changes specified below, the Board concludes that Decision 1624 is supported by the evidence in the record and should not be revised.

ORDER

IT IS HEREBY ORDERED that:

1. The second and third complete sentences at the top of page 37 in Section 6.2 of Decision 1624 are deleted from the Board's findings as set forth in the decision.

2. Condition 5 on pages 47 and 48 of Decision 1624 is amended to read as follows:

"For the protection of water quality from increased salinity due to sea water intrusion in the lower subbasin of Santa Rosa Creek and for protection of instream resources, permittee shall:

"a. Construct a monitoring well in the vicinity of well 21R3, suitable for water quality sampling and water level monitoring. The well shall be at a location approved by the Chief of the Division of Water Rights and it shall be constructed within six months of the issuance of this permit.

"b. Measure the water level in the monitoring well, and analyze well water for electrical conductivity and chloride content on a monthly basis and on a weekly basis when the water level in permittee's well 1 is below mean sea level. Monthly or weekly measurements of chloride content and electrical conductivity shall be submitted semi-annually to the Chief of the Division of Water Rights. Following receipt of two years of measurements, the Chief of the Division of Water Rights shall establish chloride concentration and electrical conductivity standards for regulation of District diversions."

"c. Follow water sampling protocol as approved by the Chief of the Division of Water Rights and have water samples analyzed for electrical conductivity and chloride content in a laboratory certified by the State of California.

"d. Cease diversions under this permit if the water level in the monitoring well falls below 3.00 feet above mean sea level. The Chief of the Division of Water Rights is authorized to adjust the water elevation requirement in the monitoring well if appropriate based upon his review of a hydrologic analysis to be submitted by the permittee. Any such hydrologic analysis shall consider the depth to bedrock in the monitoring well and shall determine the fresh water elevation needed to prevent sea water intrusion. Any action by the Chief of the Division of Water Rights to lower the monitoring well water elevation requirements must be accompanied by a finding that the permittee has consulted with the California

Department of Fish and Game regarding the tidewater goby (Eucyclogobius newberryi) and that lowering the monitoring well water elevation requirement would be in compliance with applicable provisions of state and federal law."

3. Condition 8 on page 50 of Decision 1624 is amended to read as follows:

"For the maintenance of riparian vegetation, fish and aquatic resources, permittee shall, at its option, take one of the following actions:

"Option 1

"Permittee shall operate and maintain on its own or through agreement with San Luis Obispo County, the Highway 1 gaging station or a replacement gaging station to be located downstream of the point of diversion as authorized in this permit.

"Permittee shall limit diversion to:

"a. A maximum of 2.0 acre-feet per day from November 1 through April 30 when the average daily surface flow at the downstream gage is between 2.5 and 10.0 cubic feet per second;

"b. A maximum of 1.4 acre-feet per day from November 1 through April 30 when the average daily surface flow at the downstream gage is less than 2.5 cubic feet per second.

"The gage to be utilized under this option shall be capable of providing streamflow data on a real-time daily basis.

"Option 2

"Permittee shall use the Main Street gage for monitoring streamflow under this option. Permittee shall also operate and maintain on its own or through agreement with San Luis Obispo County, the Highway 1 gaging station for a minimum period of 36 months or until a good flow correlation between the Highway 1 and Main Street

gages can be established, taking into consideration all factors affecting flow.

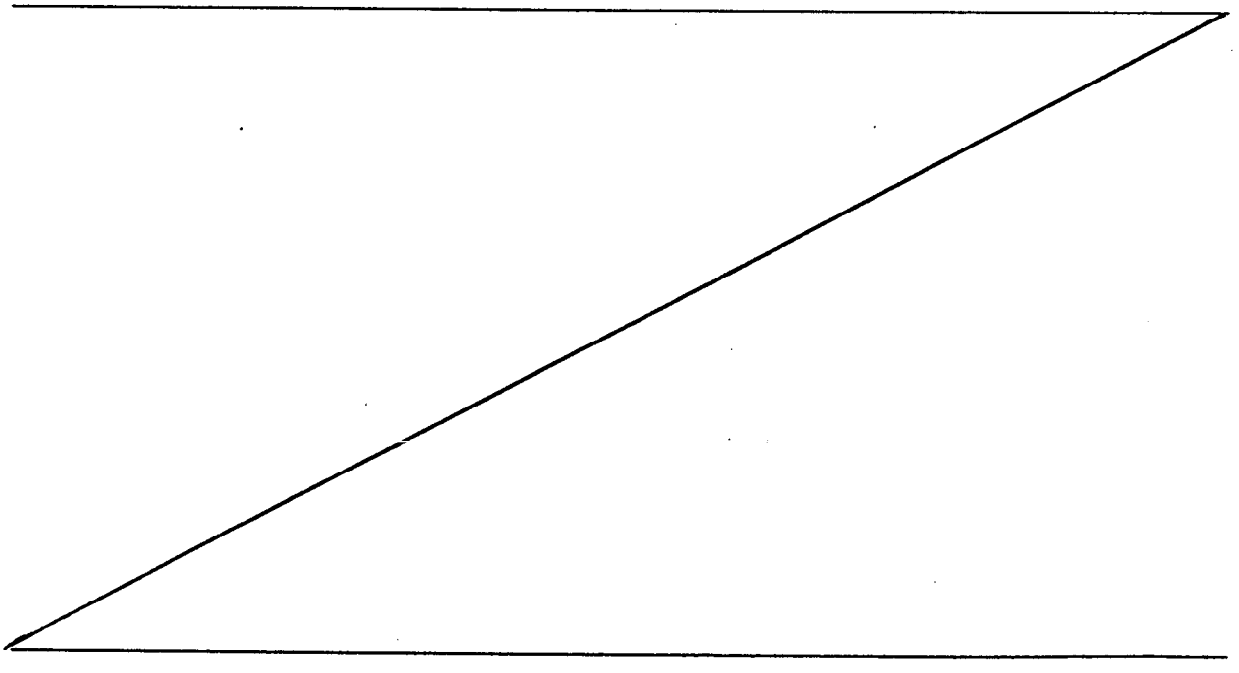
"The correlation data shall be submitted to the Chief of the Division of Water Rights within 6 months following completion of the correlation analysis for a determination regarding its acceptability and need for an adjustment in the interim required flows at the Main Street gage as described below:

"During the correlation period, permittee shall limit diversion to:

"a. A maximum of 2.0 acre-feet per day from November 1 through April 30 when the average daily flow at the Main Street gage is between 3.5 and 11.0 cubic feet per second;

"b. A maximum of 1.4 acre-feet per day from November 1 through April 30 when the average daily flow at the Main Street gage is less than 3.5 cubic feet per second.

"If at the end of the flow correlation period, the correlation data is inadequate for establishing appropriate flow requirements at the Main Street gage as determined by the Chief of the Division of Water Rights, permittee shall proceed with option 1 of this permit condition."



4. Except as modified in this order, the provisions of Decision 1624 are affirmed.

CERTIFICATION

The undersigned, Administrative Assistant to the Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on September 21, 1989.

AYE:	W. Don Maughan Darlene E. Ruiz Edwin H. Finster Eliseo M. Samaniego Danny Walsh
NO:	None
ABSENT:	None
ABSTAIN:	None

Maureen Marché
Administrative Assistant
to the Board