

STATE OF CALIFORNIA

STATE WATER RESOURCES CONTROL BOARD

In the Matter of Licensed)	ORDER:	WR 90-9
Applications 1389, 2221, and)		
2615)	SOURCE:	East Fork Walker
WALKER RIVER IRRIGATION)		River, and West
DISTRICT,)		Fork Walker River
)	COUNTY:	Mono
Licensee.)		

ORDERING AMENDING LICENSES

BY THE BOARD:

1.0 INTRODUCTION

The Walker River Irrigation District (District) having been issued Licenses 9407, 6000, and 3987, evidencing the right to appropriate water from the East Fork Walker River and the West Fork Walker River; California Trout, Inc., having requested that Licenses 9407, 6000, and 3987 be amended to comply with Fish and Game Code Section 5946; the State Water Resources Control Board (State Board) finds as follows:

2.0 DESCRIPTION OF PROJECTS

The Walker River Irrigation District (District) has a licensed water right to appropriate water from the East Fork Walker River. (License 9407, issued on Application 1389.) Application 1389 was filed on August 8, 1919 and, following extensions of time

requested by the District to complete use of water (Water Code Section 1398), License 9407 was issued on June 30, 1970. The District also holds licensed rights to appropriate water from the West Fork Walker River and a tributary source. (License 3987, issued on Application 2615, and License 6000, issued on Application 2221.) Application 2615 was filed on October 28, 1921 and, following extensions of time requested by the District, License 3987 was issued on August 5, 1954. Application 2221 was filed on February 2, 1921 and, following extensions of time requested by the District, License 6000 was issued on February 11, 1960. All licenses confirm the District's rights to the appropriation of water for domestic and irrigation purposes.

3.0

COMPLIANCE WITH FISH AND GAME CODE SECTION 5946

Fish and Game Code Section 5946 provides in relevant part as follows:

"No permit or license to appropriate water in District 4 1/2 shall be issued by the State Water Resources Control Board after September 9, 1953, unless conditioned upon full compliance with [Fish and Game Code] Section 5937."

Fish and Game Code Section 5937 requires the owner of any dam to allow water at all times to pass through a fishway, or in the absence of a fishway, to pass over,

around or through the dam, sufficient to keep in good condition any fish that may be planted or exist below the dam. In California Trout, Inc. v. State Water Resources Control Board (218 Cal.App.3d 187 (1990)), the State Board was directed to exercise its ministerial duty to condition the licenses of the City of Los Angeles for appropriation of water in District 4 1/2 in compliance with the requirements by Fish and Game Code Section 5946.

3.1 By letter dated May 17, 1990, California Trout Inc. (Cal Trout), requested that the District's license to appropriate water from the East Fork Walker River at Bridgeport Reservoir be conditioned on compliance with Fish and Game Code Section 5946. Cal Trout requested that the State Board perform this "non-discretionary" duty without delay.

3.2 All of the District's rights to appropriate water in District 4 1/2 have been reviewed and the Board concludes that it is appropriate to condition all of the District's licenses within District 4 1/2 in compliance with Section 5946 of the Fish and Game Code.

4.0 **CONCLUSION**

A review of the licenses held by the District indicate that the appropriations confirmed by said licenses are

located within District 4 1/2, and that the licenses were issued after the effective date of Fish and Game Code Section 5946 without the condition required by the section. Accordingly, the licenses should be amended in compliance therewith.

ORDER

IT IS HEREBY ORDERED that water right Licenses 3987, 6000, and 9407 be amended to include the following additional condition:

"In accordance with the requirements of Fish and Game Code Section 5946, this license is conditioned upon full compliance with Section 5937 of the Fish and Game Code."

CERTIFICATION

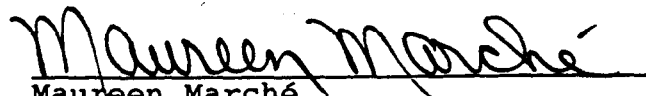
The undersigned, Administrative Assistant to the State Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on June 21, 1990.

AYE: W. Don Maughan
Darlene E. Ruiz
Edwin H. Finster
Eliseo M. Samaniego
John Caffrey

NO: None

ABSENT: None

ABSTAIN: None


Maureen Marché
Administrative Assistant
to the Board