

SRH

DIRECTORS
John Ferreira
Thomas Hoffman
Joe Mehrten
Matthys Van Gaalen
Fred Weybret

NORTH SAN JOAQUIN WATER CONSERVATION DISTRICT

221 W. Pine St., Lodi, CA 95240

GENERAL MANAGER
Edward M. Steffani

LEGAL COUNSEL
Stewart C. Adams, Jr.

October 13, 2005

Steve Herrera, Chief
Water Rights Permitting Section
SWRCB
P. O. Box 2000
Sacramento, California 95812

STATE WATER RESOURCES
CONTROL BOARD
2005 OCT 20 PM 12:42
DIV. OF WATER RIGHTS
SACRAMENTO

SUBJECT: Permit 10477 (Application 12842)

Dear Mr. Herrera:

I am writing in response to your September 14, 2005 letter requesting information to determine the District's overall compliance with Permit 10477 since its last amendment in December 1992.

Permit Term 5

You state, "The District's permittee progress reports indicate that the District has diverted water outside of the permitted season".

The District Report for 1994 shows 31 acre-feet pumped each month for April, May, June, July, August, and September. District Watermaster Weinzheimer told us that this was riparian water pumped to riparian lands adjacent to the River to assist those property owners who could not operate their pumps that year.

I, as you, have not been able to locate Reports for 1999 and 2000. Following are figures obtained from files.

ACRE-FEET BY MONTH

Year	Jan.	Feb.	March	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
1999	0	0	0	30	343	530	657	496	429	289	22	2
2000	5	1	0	54	313	857	503	545	511	0	0	0

Direct diversions of 2, 5, and 1 acre-feet were made during 12/99, 1/00, and 2/00 respectively for a Farmington Recharge Test conducted by the Corps of Engineers.

The District report for 2004 shows 0.01 acre-feet for March. The District's south pumping station meter was removed for repair, and when replaced, showed 0.01 acre-feet even though no water had been pumped.

Steve Herrera, Chief
 October 4, 2005

The District's 2004 report should have shown 35, 4, and 79 acre-feet of direct diversion for January, February, and March respectively. This water was directly diverted for winter irrigation (recharge) of a vineyard on the north side of the river. I, personally, observed flow from Murphy Creek into the river below Camanche Dam to make sure that "direct" diversion was made.

You ask for, "...dates and quantities of both the District's direct diversions from the Mokelumne River and the District's diversions from the river that are considered diversions from released stored water in Camanche Reservoir. The District should also state the quantity of water stored in Camanche Reservoir each year..."

Diversions from storage are shown in the following table together with the quantity of water stored each year.

DIVERSIONS FROM STORAGE

Year	Quantity Stored	Diversions (AF) by Month								Total Diversion
		April	May	June	July	August	Sept	Oct.	Nov.	
1992	0	0	0	0	0	0	0	0	0	0
1993	20,000	0	322	768	890	610	479	129	0	3198
1994	0	31	31	31	31	31	31	0	0	186
1995	20,000	0	46	540	688	772	413	184	0	2643
1996	20,000	0	233	523	696	620	500	178	0	2750
1997	20,000	473	514	478	0	0	0	0	0	1465
1998	20,000	0	1	206	635	509	378	240	0	1969
1999*	20,000	30	343	530	657	496	429	289	22	2796
2000*	20,000	54	313	857	503	545	511	0	0	2783
2001	0	0	0	0	0	0	0	0	0	0
2002	6,000	52	278	393	295	375	300	185	0	1878
2003	4,000	0	9	236	788	717	690	700	12	3152
2004	5,000	82	264	469	510	357	274	186	0	2416

Steve Herrera, Chief
October 4, 2005

*From District records

Permit Term 15

You request "...information relative to whether acceptable fish screens were installed at the various points of diversion and/or whether the District entered into an operating agreement with DFG relative to Permit 10477".

District records show that an agreement for installation of a fish screen was made with DFG on 4/30/93 (copy enclosed) other material (copies enclosed) show that a one year test of a screen to be provided by DFG was to be conducted.

Watermaster Weinzheimer told me that he delivered the screen material to Mr. Dave Rose at the Elk Grove office of DFG, at the conclusion of the 1993 test, and was told to not bother trying to install fish screens in the future because DFG agreed that warmer water in the District's pump supply channel would discourage fish entrance.

Permit Term 23

You request that "...the District provide evidence of any agreement made with DFG...", "...relative to flows to be bypassed for aquatic life or until a further order is entered by the State Water Board with respect to said flows".

District files reveal no agreement with DFG relative to flows to be bypassed for aquatic life. We do believe however that such flows are provided pursuant to the EBMUD-FERC agreement.

Hopefully, we have answered all your questions. Should you desire additional information, please do not hesitate to contact me at (209) 727-0207 or (209) 712-5034.

Sincerely,



Ed Steffani
General Manager

ES/bss

PORTION OF NSJWCD
MINUTES 3/10/93

Department of Fish & Game concerning fish protection and/or fish screens to allow this District to receive irrigation water during this calendar year. Mr. Sorensen advised that after consultations with representatives of the Department, it was determined that no fish screens would be needed after June 15th of each year. He further stated that the Department was in a transitional period and that perhaps Jerry Mensch, the leading proponent of fish screens, may be transferred. He was informed that Roger Ganaye, previously with the Department and the representative who inspected the sites at the District's pumps, has left the Department and is now in the employ of the U. S. Fish & Wildlife Service. Further investigation determined that Mr. Donald Nelson was the man from the Department with whom we must negotiate. It was hoped that we could secure some type of an interim agreement with minimal cost and expense to the District to allow receipt of water for irrigation purposes during this calendar year. One of the practical considerations that would be presented was the fact that there are high flows in the river and by definition no velocity into the District's channels. Further, in view of the high water levels, screening would be exceedingly difficult to install and maintain. Upon motion of Director Hoffman, seconded by Director Mettler, motion carried, Messrs. Sorensen and Adams were authorized to negotiate and execute on behalf of the District an interim agreement with the Department of Fish & Game to enable this District to secure water deliveries during this calendar year, keeping in mind that at this late date, resort to the State Water Resources Control Board for a further hearing would be costly to the District and too late to render a timely decision for the District to promptly make water deliveries.

Thereafter, Mr. Richard Best, Agricultural Marketing

DEPARTMENT OF FISH AND GAME

REGION 2
1701 NIMBUS ROAD, SUITE A
RANCHO CORDOVA, CA 95670



(916) 355-7020

April 8, 1993

North San Joaquin Water
Conservation District
121 West Pine Street
Lodi, CA

Gentlemen:

This is a follow-up to our meeting with Mr. James Soranson, and at his request, are providing information on the Department of Fish and Game's (Department) position regarding a fish screen at your diversion on the lower Mokelumne River. It is our understanding that the District would like to begin water diversion May 1, 1993 and continue through the summer. The maximum diversion would be 30 cfs. In the past, diversions have not occurred every year and, in fact, have not occurred in most years. Let me assure you that we want to work with you to develop a mutual acceptable way for you to get the water you need while providing protection to the salmon and steelhead resources in the Mokelumne River.

As you know, it is the Department's position that a fish screening device is necessary on your diversion for the protection of anadromous fish. Perhaps it would be beneficial to take this opportunity to express the Department's reasons for this position. Our recommendations to protect aquatic resources are based on legal mandates and policies which dictate Department operations. State law mandates the Department to protect and increase anadromous resources (Fish and Game Code Sections 1700 et seq., 2600 et seq., 2760 et seq., and 6900 et seq.). Also, it is the policy of the Fish and Game Commission, pursuant to Section 703 of the Fish and Game Code, that the Department shall protect, restore or improve populations of salmon and steelhead.

Additionally, the recent Appellate Court decision involving Anderson-Cottonwood Irrigation District has clarified and broadened the definition of take. The essence of the Appellate Court Decision is that the California Endangered Species Act (CESA), which prohibits "take" of listed threatened and endangered species, is not confined to hunting or fishing activities, but also prohibits the killing of fish as a result of lawful irrigation activity. This decision provides enormous enforcement powers under CESA and potentially to other non-listed

not been tried to date, as we both know there are many groups waiting to instigate such an action.

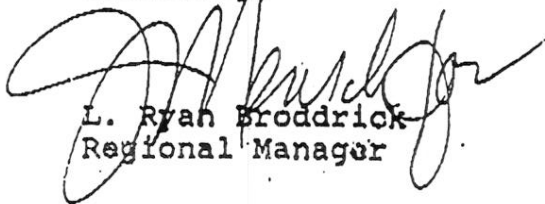
Mr. Soranson has provided a general plan to screen the intake and with some modification, we believe that his plan would be acceptable. Realize that the proposal does not meet established Department criteria for salmonids and on a permanent basis would be unacceptable. However, on a one time (year) basis with the conditions we have in the Mokelumne River this year (high flows, cool water temperatures, etc.) and with the understanding you will be developing a long-term solution, we believe that the plan would be tolerable provided the structure be covered with perforated plate (3/16 opening).

The Department has approximately seven sheets (3 ft x 10ft.) of perforated plate that we are not presently using. We are willing to loan these to the District with the understanding that they be returned in original condition or, if damaged, replaced. Also, Mr. Dave Rose of our Screen Shop has a wealth of practical experience in construction of fish screens, and we have discussed the situation with him. We would recommend that Mr. Soranson contact him regarding this construction and to arrange to pick up the perforated plate. Mr. Rose may be contacted at (916) 685-9733.

Thank you for your concerns and efforts in resolving this issue. I believe that this will meet your needs and also protect the fishery resources this year. I look forward to working with you to develop a long-term solution.

If you have any questions, please contact Mr. Jerry Mensch, Environmental Services Supervisor, at (916) 355-7030.

Sincerely



L. Ryan Broddrick
Regional Manager

April 15, 1993

Mr. L. Ryan Broddrick,
Regional Manager
California Department of Fish & Game
1701 Nimbus Road, Suite A
Rancho Cordova, CA 95670

Attention: Mr. Jerry Mensch,
Environmental Services Supervisor

Dear Mr. Broddrick:

This letter is being written at the request of North San Joaquin Water Conservation District in response to your letter dated April 8, 1993 received by facsimile transmission on April 14, 1993.

The District appreciates your letter and proposes to proceed to construct fish barriers in the channels leading to the District's pump stations using the following:

1. Bridges consisting of two poles with one-inch plywood decking to be approximately one foot above the existing high water (1,200 cfs).
2. Vertical steel pipes or beams to support screens.
3. Screens which will be loaned by DFG consisting of perforated aluminum plate framed by wooden 2 x 4's and fastened to the vertical steel members.

The District proposes to take this action since it appears to be the only expeditious and economical approach given the time constraints and the important and primary need for the District to deliver urgently needed irrigation water in a timely fashion.

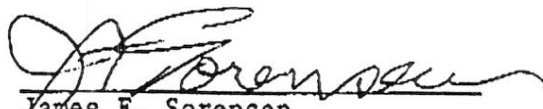
The District will cooperate with the Department of Fish and Game to attempt to reach a permanent solution to adequately protect fish life after the resolution of the myriad of issues now before the State Water Resources Control Board in the Mokelumne River hearings, including, but not limited

Mr. L. Ryan Brodderick
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April 15, 1993

to, water entitlement of this District, fish screening responsibilities under the provisions of the Fish and Game Code, and the obligation of the District, if any, to bear financial responsibility for same.

If the foregoing properly memorializes our understanding, kindly acknowledge approval and acceptance on a copy of this transmission and return same to this office by facsimile transmission to (209) 732-7937.

Yours very truly,


James F. Sorensen
Consulting Engineer

Approved and Accepted
this _____ day of April, 1993.

CALIFORNIA DEPARTMENT OF FISH & GAME

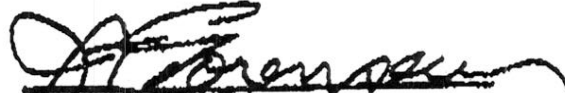
By: _____

Mr. L. Ryan Brodderick
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April 15, 1993

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If the foregoing properly memorializes our understanding, kindly acknowledge approval and acceptance on a copy of this transmission and return same to this office by facsimile transmission to (209) 732-7937.

Yours very truly,


James F. Sorensen
Consulting Engineer

Approved and Accepted
this 15th day of April, 1993.

CALIFORNIA DEPARTMENT OF FISH & GAME

By: 

DEPARTMENT OF FISH AND GAME

REGION 2
1701 NIMBUS ROAD, SUITE A
RANCHO CORDOYA, CA 93670



(916) 355-7020

April 19, 1993

Mr. James F. Sorensen
P.O. Box 509
Visalia, California 93279

Dear Mr. Sorensen:

This is to clarify Item 3 of your letter, dated April 15, 1993. We agree to loan the North San Joaquin Water Conservation District (District) the perforated aluminum plate but the reference to the plate being "framed on wooden 2 x 4's and fasten to the vertical steel members" would need to be completed by the District. I believe that framing was a suggestions to the District by Mr. Dave Rose of our Screen Shop, during a phone conversation.

If you have any questions, please contact Mr. Jerry Mensch, Environmental Services Supervisor, telephone (916) 355-7030.

Sincerely,

L. Ryan Broddrick
Regional Manager