

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 24929 of)	
CITIZENS UTILITIES COMPANY OF)	Decision: 1604
CALIFORNIA)	
Applicant)	Source: Russian River
CALIFORNIA DEPARTMENT OF FISH AND GAME)	and Hulbert
Protestant)	Creek Underflow
	County: Sonoma

DECISION APPROVING APPLICATION 24929

BY THE BOARD:

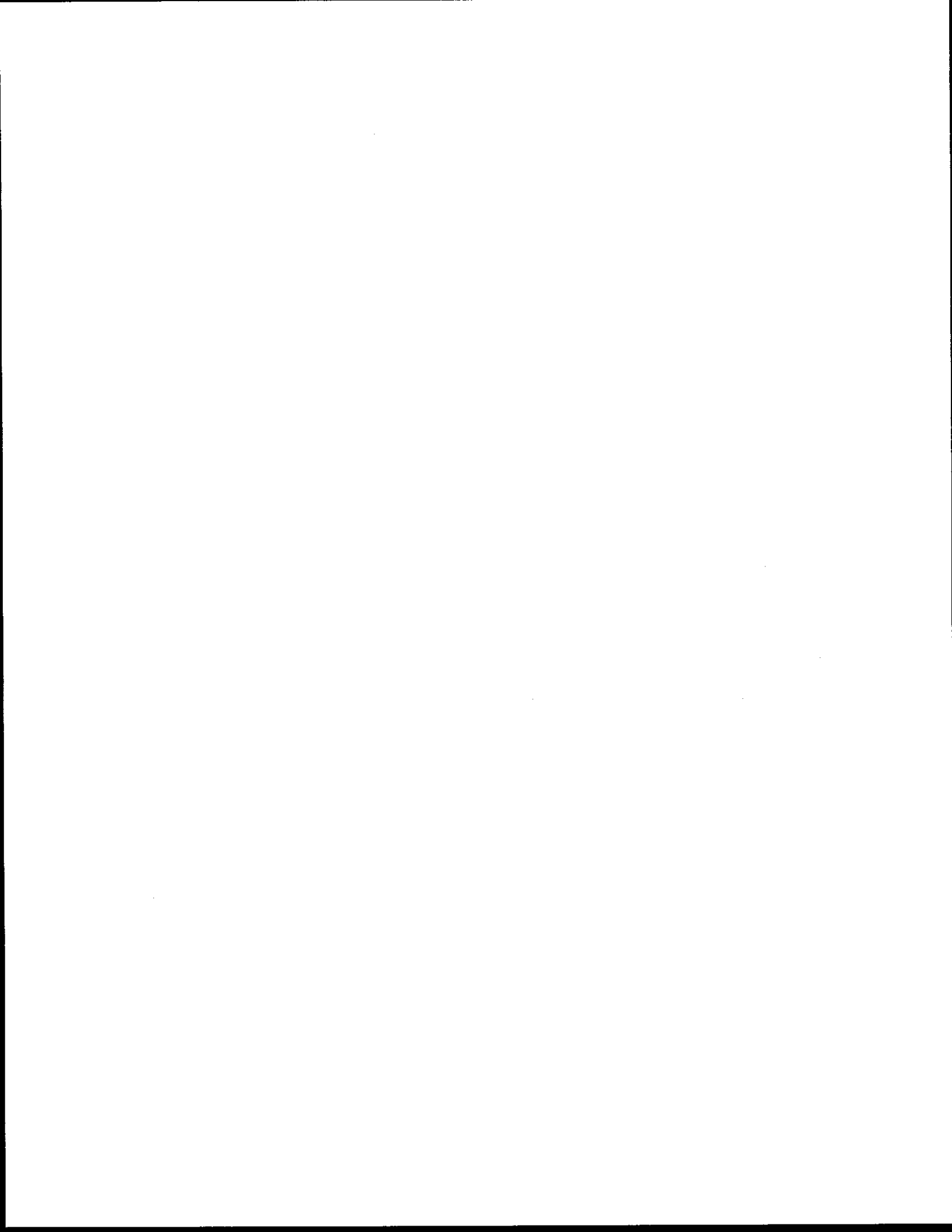
Citizens Utilities Company of California having filed Application 24929 for a permit to appropriate unappropriated water; a protest having been received; the applicant and protestant having stipulated to proceedings in lieu of hearing as provided for by Title 23, California Administrative Code, Section 737; an investigation having been made by the State Water Resources Control Board pursuant to said stipulations; the Board, having considered all available information, finds as follows:

Substance of Application

1. Application 24929 is for a permit to appropriate 3.0 cubic feet per second by direct diversion from the underflow of Russian River and Hulbert Creek in Sonoma County From January 1 to December 31 of each year to be used for municipal purposes.

Applicant's Project

2. Applicant is presently diverting from seven wells from the underflow of Russian River and one well is pumping from the underflow of Hulbert Creek. Additional wells and well sites specified in the application could be rehabilitated and placed into use.



These wells are to provide additional service to the communities of Guerneville, Monte Rio and others provided with service along the Russian River. The proposed diversion is in addition to 2.32 cfs the applicant diverts from the wells currently in use under a claimed pre-1914 appropriative right. The requested additional diversions are intended to be used to meet the increasing water needs of the service area through 1990. All points of diversion will be connected to a distribution system that enables the water to be commingled.

Protest

3. The California Department of Fish and Game (Fish and Game) filed the only protest, specifying minimum bypass flows on both Hulbert Creek and Russian River for instream uses. Agreement was reached on Hulbert Creek placing a daily limit on diversion rather than subjecting diversion to a bypass flow. Agreement was not reached on the Russian River bypass.

4. Fish and Game requested that the following term (Standard Permit Term 68) be included in any permit issued for Application 24929:

"For the protection and preservation of fishlife and the maintenance of water related recreational uses, permittee shall divert only when the flow in the Russian River exceeds 125 cubic feet per second. River flows shall be measured at the nearest U. S. Geological Survey gaging station on the river."

Existence of Unappropriated Water

5. Decision 1030, as modified by Board Order WR 74-30, established a 10,000 acre-foot reservation from the Coyote Valley Project for future use within the Russian River Valley in Sonoma County. Unappropriated water is available under this reservation for diversion during the period sought and, subject to suitable conditions, can be used without causing substantial injury to any lawful user of water.

6. The intended use of water is beneficial.

Discussion

7. The applicant claims that it is "unnecessary and inappropriate" to include Standard Permit Term 68 in the permit. This is based on its claim that Board Decision 1030 and Order WR 74-30 require that the Sonoma County Water Agency (Sonoma), operator of Coyote Valley Dam under permitted Application 12919A, release sufficient water from Lake Mendocino to maintain the minimum fishlife and recreational flows as well as provide 10,000 acre-feet per annum for use in the Russian River Valley in Sonoma County.

8. The applicant emphasizes that special taxes are being paid by the inhabitants who will be served by Application 24929, and that these ad valorem property taxes are helping to pay for the Coyote Valley Dam and Reservoir Project. Therefore, "it is inappropriate and unnecessary that those lands and inhabitants, with their Project already being obligated to the maintenance of the fishery/recreational flows of 125 cfs in Sonoma County, should further subordinate their utilization of the 10,000 acre-feet provided for their use to the 125 cfs guaranteed flow."

9. The permits originally granted to Sonoma by Decision 1030 (including the 10,000 acre-foot reservation) were subject to the terms of a stipulation and agreement with Fish and Game dated August 21, 1959, which is the basis for the quantities specified in Standard Permit Term 68.

10. Paragraph 18 of Board Order WR 74-30 is very clear regarding the relative water right priorities between releases for instream use and for "junior appropriators":

"Permittee (Permit 12947A) shall release water from storage as required to meet the demands of junior appropriators not to exceed 10,000 acre-feet per annum, in Russian River Valley in Sonoma County, except to the extent that retention of stored water is necessary to insure satisfaction of the minimum streamflows required by this permit." (Emphasis added.)

Consequently, the applicant would not be further subordinating use of a portion of the 10,000 acre-feet because Board Order WR 74-30 has already established that those diversions are subordinate to the 125 cfs guaranteed flow in Zone 5 (Sonoma County).

11. In years of adequate supply, Standard Permit Term 68 has no practical effect on water right permits issued against the 10,000 afa reservation because Sonoma is required to release water from storage if necessary to satisfy the minimum stream flow criteria. However, during water shortages, Term 68's presence in the "junior appropriator's" permits provides the Board with a means to exercise the same control it has over Sonoma's permits. This control is necessary in order to assure equitable distribution of reduced flows. Standard Permit Term 68 should be included but should be modified to make it clear that if the bypass flows are revised through future agreement with the Department of Fish and Game, permittee is only obligated to comply with the revised bypass.

Environmental Considerations

12. In December, 1983, staff conducted further investigation to determine environmental effects of the project. The investigation determined that the permit terms agreed to by the applicant and Fish and Game should be modified to restrict diversions from Hulbert Creek during May and June so as to mitigate adverse effects on downstream migrating silver salmon and steelhead trout. The modified terms are included in this decision.

The Board as lead agency has prepared an Initial Study and approved a Negative Declaration in accordance with the California Environmental Quality Act (Public Resources Code, Section 21000, et seq.) and the State EIR Guidelines (14 Cal. Admin. Code, Section 15000, et seq.). After the Board adopts this decision, it will file a Notice of Determination with the Secretary for Resources. The Board determines that the project will have no significant effect on the environment provided the permit is made subject to the special

terms contained in the Initial Study. Consideration of the Negative Declaration and Initial Study and filing of the Notice of Determination will satisfy the Board's responsibilities under the California Environmental Quality Act.

Record in this Matter

13. The records, documents, and other data relied upon in determining this matter are: Application 24929, Board Decision 1030 and Board Order WR 74-30.

Conclusions

14. From the foregoing findings, the Board concludes that Application 24929 should be approved and that a permit should be issued to the applicant subject to the limitations and conditions set forth in the order following:

ORDER

IT IS HEREBY ORDERED that Application 24929 be approved and that a permit be issued to the applicant subject to vested rights. The permit shall contain all applicable standard permit terms (6, 10, 11, 12, 13)^{1/} in addition to the following conditions:

1. The water appropriated from Russian River underflow shall be limited to the quantity which can be beneficially used and shall not exceed 3.0 cubic feet per second to be diverted from January 1 to December 31 of each year. The maximum amount diverted shall not exceed 1,249 acre-feet per year.

2. Complete application of the water to the authorized use shall be made by December 1, 1990.

^{1/} The Board maintains a list of standard permit terms. Copies of these are available upon request.

3. The water appropriated from Hulbert Creek underflow shall be limited to the quantity which can be beneficially used and shall not exceed 12,000 gallons per day to be diverted from January 1 to December 31 of each year. The maximum amount diverted under this permit from Hulbert Creek shall not exceed 12 acre-feet per year. The equivalent of the daily allowance for any 7-day period may be diverted in a shorter time, except during the months of May and June, provided there be no interference with other vested rights.

Measurement of the diversion from Hulbert Creek shall be made either by meter or by keeping and making available the power consumption records from which the daily and monthly pumping amounts can be calculated.

4. The total quantity of water diverted from the Hulbert Creek watershed under this permit, together with any other rights claimed by permittee, including rights pursuant to permittee's Statements of Water Diversion and Use, S9076, S9077, and S9079, shall not exceed 130 gallons per minute during the months of May and June of each year.

5. For the protection and preservation of fishlife and the maintenance of water related recreational uses, permittee shall divert only when the flow in the Russian River exceeds 125 cubic feet per second or such lesser flows as are required by the Board. River flows shall be measured at the nearest U. S. Geological Survey gaging station on the river.

6. Availability of water for appropriation under this permit during the critical period of July 1 through October 31 is dependent upon water remaining available under the 10,000 acre-foot per annum allocation of water from Coyote Valley Reservoir (Lake Mendocino) for use in the Russian River Valley in Sonoma County. If subsequent studies show that the above-mentioned allocation has been fully used before use is completed under this permit, a

license shall be issued only for the amount of water, if any, which has been put to use under this permit and which is included in the allocation.

7. Permittee shall not later than December 31, 1985, prepare and adopt an Urban Water Management Plan in conformance with Sections 10610, et seq., of the California Water Code. The plan shall be submitted to the Board no later than 30 days after adoption. Additional information as may be required by the Board shall be submitted at the same time.

All cost-effective measures identified in the water conservation program shall be implemented in accordance with the schedule for implementation.

CERTIFICATION

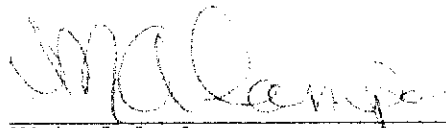
The undersigned, Executive Director of the State Water Resources Control Board, does hereby certify that the foregoing is a full, true, and correct copy of a decision duly and regularly adopted at a meeting of the State Water Resources Control Board held on November 27, 1984.

Aye: Carole A. Onorato
Warren D. Noteware
Kenneth W. Willis
Edwin H. "Ted" Finster

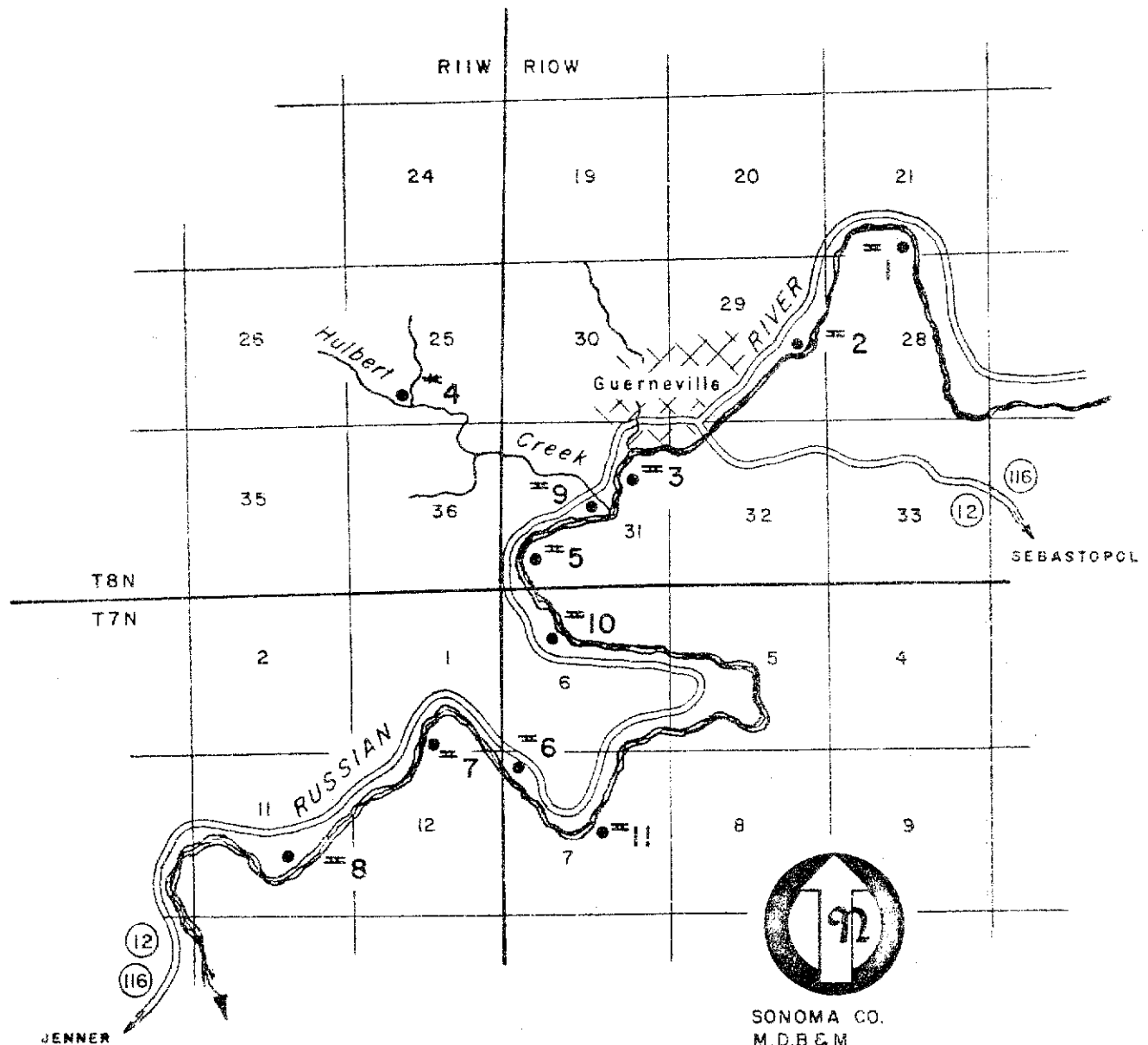
No:

Absent: Darlene E. Ruiz

Abstain:



Michael A. Campos
Executive Director



WELLS — A-24929 (Citizens U.C. of Calif.)

- 1 ● — DRAKES BEACH
- 2 ● — EL BONITA
- 3 ● — EAST GUERNEVILLE
- 4 ● — MONTE ROSA - HULBERT CREEK
- 5 ● — VACATION BEACH
- 6 ● — MONTE RIO
- 7 ● — VILLA GRANDE
- 8 ● — RIVER MEADOWS
- 9 ● — GUERNEVILLE PARK
- 10 ● — MONTESANO
- 11 ● — MONTE RIO

PROTESTANT

Dept. of Fish & Game

STATE OF CALIFORNIA
 STATE WATER RESOURCES CONTROL BOARD
 DIVISION OF WATER RIGHTS

APPLICATION
24929

CITIZENS UTILITIES COMPANY OF CALIFORNIA

SCALE 1 MILE

DATE: 9/27/84	DRAWN: GCW	CHECKED: LKB	DWG: 3321
---------------	------------	--------------	-----------

1948

1949

1950

1951

1952

1953

1954