

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 26813)	
)	DECISION 1613
UNIVERSITY EXCHANGE CORPORATION,)	
)	
Applicant,)	
)	SOURCE: McCoy and
GOLETA WATER DISTRICT, ET AL.,)	Glen Annie Creeks
)	
Protestants.)	COUNTY: Santa Barbara
)	
)	

DECISION APPROVING APPLICATION 26813

BY THE BOARD:

1.0 INTRODUCTION

University Exchange Corporation (applicant) having filed Application 26813 for a permit to appropriate unappropriated water from McCoy and Glen Annie Creeks; protests having been received; a public hearing having been held on September 12, 1984; the Board having considered all evidence in the record; the Board finds as follows:

2.0 SUBSTANCE OF APPLICATION

Application 26813 is for a permit to appropriate 0.77 cubic feet per second (cfs) by direct diversion, not to exceed 166 acre-feet per annum (afa) from January 1 through December 31, and 324 afa by storage to be collected from December 31 of each year through May 1 of the succeeding year. The total combined direct diversion and storage will not exceed 490 afa. The points of diversion are from McCoy Creek

within the SE 1/4 of the SW 1/4 of Section 25, T5N, R29W, SBB&M;¹ Glen Annie Creek within the NW 1/4 of the NW 1/4 of Section 1, T4N, R29W, SBB&M; and Glen Annie Creek within the NE 1/4 of NW 1/4 of Section 13, T4N, R29W, SBB&M. The maximum rate of diversion to offstream storage will be 7.2 cfs. The storage facilities for this project will consist of three offstream reservoirs with capacities of 140 af, 92 af, and 92 af, respectively, located within the W 1/2 of the SE 1/4 of Section 1, T4N, R29W, SBB&M.

The purposes of use of the water appropriated under Application 26813 are municipal, irrigation, and stockwatering uses. For the municipal uses, the water will be passed through filtration and chlorination units and through a 285,000 gallon water treatment and regulation tank. The municipal water then will be delivered to a two-part residential development which is planned to include 612 residences.

Water appropriated under Application 26813 is proposed to be placed to municipal use at two proposed residential developments referred to herein as the West Devereux Specific Plan area and the 11.2 Acre Parcel (also known as Pacific Oaks Townhouses), within portions of Sections 13, 14, 23 and 24, T4N, R29W, SBB&M. Surplus water appropriated under Application 26813 also is proposed to be used for agricultural irrigation on existing agricultural lands within portions

¹ References to township and range are to the San Bernardino Base and Meridian (SBB&M).

of Section 31, T5N, R28W, SBB&M; Sections 35 and 36, T5N, R29W, SBB&M; Sections 1, 2 and 12, T4N, R29W, SBB&M; and Sections 6 and 7, T4N, R28W, SBB&M.

3.0 PROTESTS

Seven protests were filed against Application 26813. Four protests were dismissed after the applicant agreed to the following terms and conditions to be placed in the water right permit issued on Application 26813. These terms and conditions are:

1. No water will be diverted at Weir Site #1 (a) in excess of 50 gallons per minute (gpm) when the flow immediately below Weir Site #2 is less than 60 gpm, and (b) in excess of 25 gpm when flow immediately below Weir Site #2 is less than 50 gpm.
2. No water will be diverted at Weir Site #2 when flow at Weir Site #2 is less than 50 gpm.
3. No water will be diverted at Weir Site #3 when the flow immediately below Weir Site #3 is less than 170 gpm, or there is no visible flow in Tecolotito Creek at the Hollister Avenue Bridge.

Another protest was dismissed based on proposed mitigation measures set forth in the Environmental Impact Report. A sixth protest was withdrawn.

The remaining protest, of Goleta Water District (District), was not resolved before the hearing. The District protested, alleging the following:

1. The project would not best conserve the public interest. This allegation is based on arguments that (a) there may be inadequate water available during dry years; (b) if the storage facilities were physically damaged, the water supply could fail; (c) because of a water shortage the District is not in a position to serve water to the project if its water supply fails; (d) if water is available from the creeks, the District rather than the applicant should develop the water and supply it to the users.

2. The project would have an adverse environmental impact. This allegation is based on (a) the District's concern that the proposed diversion will reduce groundwater recharge and will in turn result in an overdraft of the groundwater basin, (b) threatened adverse environmental impacts in the coastal region, and (c) supplementing the proposed diversions by drilling new wells could aggravate an existing overdraft problem if the wells are drilled in the west sub-basin.

3. The project might injure vested water rights. This allegation is based on the District's claim of vested rights to a part of the yield of the central sub-basin of the Goleta groundwater basin. The District speculates that if the proposed diversions reduce the groundwater recharge of the west sub-basin, and if there is an interconnection between the west and central sub-basins, the project would reduce the yield of the central sub-basin, injuring the District's rights.

4.0 ADEQUACY OF WATER SUPPLY FOR THE PROPOSED USES

4.1 Availability of Unappropriated Water

4.1.1 Effect on Prior Rights

The proposed diversions will reduce the flow in three stream reaches. These reaches are: McCoy Creek from Weir No. 1 to Glen Annie Creek; Glen Annie Creek from its junction with McCoy Creek to U.S. Highway 101, and Tecolotito Creek from U.S. Highway 101 to the Pacific Ocean. The Board has no record of any prior surface water rights in these reaches which could be impaired by the project.

Goleta Water District in its protest alleges a potential effect on its groundwater rights because the diversion may reduce the recharge of groundwater. However, the record does not support this claim. Instead, evidence in the record supports the conclusion that the recharge contribution of the source creeks is insignificant and therefore the proposed diversions will have no significant effect on recharge of groundwater in the central sub-basin, from which the District extracts water. We find that the proposed diversions will have no significant effect on District's exercise of its groundwater rights in the central sub-basin.

4.1.2 Amount of Water Available for Appropriation

Certain bypass flows are recommended in the EIR and are set forth in Paragraph 3.0 as protest dismissal terms. If these bypass flows are required, water will be available to the project in varying amounts, dependent on the month and on the year type. We find that in

approximately 34 percent of years, the maximum project diversion of 490 af will be available for appropriation. In approximately 63 percent of the years, 200 af or more will be available. In approximately 93 percent of years, 100 af or more will be available.

According to the applicant, the estimated full needs of the proposed residential developments will be 282 afa. Of this amount, 240.1 afa would be used in the West Devereux place of use and 41.9 afa would be used on the 11.2 Acre Parcel. In approximately 52 percent of years the project will be able to yield the total amount. In 85 percent of years the project will be able to yield at least 150 afa.

4.2 Availability of a Supplemental Water Supply

Because the amount of water available for appropriation under this application will be inadequate for the proposed uses in many years, the availability and quality of a supplemental water supply is a major consideration in the Board's decision.

Applicant proposes to supplement the water to be appropriated under this application with water from wells on the Corona Del Mar Ranch. These wells extract water from the Vaqueros Sandstone, and not from the Goleta Groundwater Basin. Thus, any increased pumpage from them will not threaten the District's water supply.

However, the EIR suggests that the pumping could decrease base flows to the diversion of Weir Number 2. We note that to the extent that a withdrawal from a well constitutes a withdrawal from the underflow of the stream, a withdrawal from a well would constitute a diversion of water subject to the law of surface waters and, if it causes a

reduction in the bypass flow in the stream, would defeat the Board's intention to require a minimum bypass flow. Such diversion is not authorized by this decision, and would require an additional approval by this Board.

With the supplemental water supply, the volume of water needed by the proposed residential developments could be met in 96 percent of years without exceeding the groundwater basin safe yield. In 4 percent of years the safe yield would be exceeded. This does not appear to be an unreasonably large number of years of overdraft, since the groundwater basin can be expected to be recharged in other years.

However, the available evidence indicates that the use of the supplemental water supply might significantly reduce the quality of the drinking water delivered to the residential place of use. The recommended maximum level of total dissolved solids in drinking water, in both the federal and the state regulations, is 500 parts per million (ppm). Neither the state nor the federal recommended maximum is firm. The federal regulation at 40 CFR 143 is expressly not enforceable by the Environmental Protection Agency, and is intended solely as a guideline for the states. The state regulation, at 22 Cal.Admin.Code §64473, provides that 500 ppm is the recommended maximum, but also provides that a 1000 ppm level should be the upper limit, except for short-term circumstances applying to existing water supplies. When the project water is supplemented, the EIR states that the total dissolved solids will be as high as 931 ppm in the driest year of record, when the project would blend 235 acre-feet of

supplemental water at 1026 ppm with 47 af of project water. According to a single test mentioned in the EIR at page VI-115, the project water has approximately 458 ppm. However, other data at page V-14 of the EIR shows that the project water may have a much higher level of total dissolved solids. If the project water has much more than 458 ppm of dissolved solids, the highest level for blended water may exceed 1000 ppm. Some data in the EIR indicates levels ranging as high as 2181 ppm for project water at one point of diversion.

In 48 percent of the years the project will not supply the full residential requirement of 282 afa. Thus, the addition of supplemental water will be frequent. Since the project water itself may have total dissolved solids above the recommended maximum, any significant addition of supplemental water may either raise the dissolved solids to a point above the recommended maximum or dilute the project water's dissolved solids.

It is in the public interest to ensure that projects which appropriate water for domestic uses will provide an acceptable quality of water for drinking. However, without further information on the acceptable level of total dissolved solids in the project vicinity and information on the possible adverse effects of high levels of dissolved solids, we cannot determine the appropriate quality for this project. Another state agency, the Department of Health Services, must consider and authorize the proposed delivery of water to the project before the water can be put to the proposed municipal use. Consequently, we will condition our approval of this project on the

receipt of authorization from the Department of Health Services to deliver project water, as supplemented, to the proposed municipal places of use. Further, we will reserve jurisdiction so that we can if necessary take further evidence and place further conditions upon the use of project water for municipal purposes, after it has been possible to determine more accurately the quality of the project water and the appropriate water quality for the place of use.

4.3 Geological Hazards to the Water Supply

In its protest, the District alleged that physical damage to the project's storage facilities, presumably because of geological events, could cause the project's water supply to fail. While the record shows that earthquake damage is possible, the likelihood of very strong shaking that would affect the project is minimal. The maximum shaking force is expected to be 0.4 of the acceleration of gravity. Shaking at this force could cause erosion, damage to a reservoir, or water overtopping the proposed dams.

These hazards can be mitigated satisfactorily by (1) designing and constructing the proposed facilities in accordance with the Uniform Building Code, Chapter 23; (2) designing and constructing the reservoirs to withstand water oscillations and resultant rapid erosion and overtopping associated with an approximate 8-1/4 Richter Scale earthquake along the San Andreas Fault nearest to the project site; (3) carrying out the mitigation measures recommended in the EIR. If these measures are taken, it is unlikely that there will be a substantial failure of the water supply for the project as the result of an earthquake.

5.0 ENVIRONMENTAL CONSIDERATIONS

5.1 Environmental Documentation

An Environmental Impact Report for the project was prepared by the County of Santa Barbara in accordance with the California Environmental Quality Act (Public Resources Code §21000 et seq.) and the State EIR Guidelines. The County certified it pursuant to Public Resources Code §21152 and Section 15090 of the State EIR Guidelines on July 26, 1984. We take official notice that the Santa Barbara County Board of Supervisors at its January 7, 1985 meeting approved the water diversion part of the project, but has not yet approved the residential part of the project. We also take official notice that a condition of the County's approval is that the applicant prior to approval of any residential development to be served by these water diversions apply to the Goleta Water District for water service and shall transfer its water rights to the District in exchange for water service.

The Board is a responsible agency under the California Environmental Quality Act for this project. As a responsible agency, the Board herein considers the EIR and reaches its own conclusions on whether and how to approve the project. In doing so, the Board is responsible for mitigating or avoiding only the direct or indirect environmental effects of the parts of the project which it decides to approve. State EIR Guidelines, §15096(g)(1). Since the Board as a part of its

approval will approve the place of use and purpose of use of the water as well as the diversion of the water, it will consider the effects of the diversion facilities, the use of water for municipal purposes, and the use of water at the proposed places of use.

5.2 Geologic Considerations

The geologic hazards associated with the water diversion facilities are discussed above, in finding 4.3. The same measures that will mitigate the potential effects of an earthquake on the project water supply will also mitigate the environmental effects of the diversion facilities in the event of a strong earthquake. These mitigation measures will be included as terms and conditions of any permit issued on this application.

Additionally, geologic hazards are associated with the residential place of use of the water to be appropriated under this application. Two branches of the More Ranch fault and the North Ellwood fault run through the proposed place of use in the West Devereux site. The More Ranch fault apparently is inactive. Other faults lie offshore of the proposed places of use. It can be expected that ground accelerations up to 0.55 gravity will occur at both residential places of use. This could damage residential structures unless mitigation measures are carried out.

In the southern part of the West Devereux site, liquefaction of soils may occur during an earthquake. However, the liquefiable soils are at a depth of 10 to 15 feet, and there is evidence that they are not expected to significantly affect residential structures on the surface.

Finally, erosion may be caused by grading and construction at the West Devereux place of use. Any erosion would in turn cause sedimentation in Devereux Slough unless mitigated.

Mitigation measures are listed in the EIR for these impacts. These measures will be conditions of any permit on Application 26813. They include compaction of fills, reinforcement and construction of footings and slabs in accordance with County requirements, setbacks from faults, erosion control measures including permanent siltation basins, increasing the shear strength in walls by 10 percent over that required by the Uniform Building Code, and revegetation of areas that are subject to accelerated erosion.

5.3 Biological Resources Affected by the Diversions of Water

The proposed diversions of water may adversely affect riparian woodlands along Glen Annie and McCoy Creeks, two small stands of coastal oaks near the proposed reservoir sites, and Goleta Slough.

To mitigate the effects on the riparian woodlands of the diversions of water, we will condition the permit on the mitigation measures proposed in the Environmental Impact Report (EIR). The mitigation measures include (a) construction by hand of the pipeline through a sensitive area from Weir No. 1 downstream on McCoy Creek, (b) obtaining and complying with a Watercourse Obstruction Permit from the Department of Fish and Game, (c) the bypass of the minimum instream flows listed above in finding 3.0, and (d) ceasing diversion at the existing "McCoy Intake" for the life of the project.

To mitigate the effects on the two stands of coastal oaks we will condition the permit on the reservoirs and appurtenant facilities being located and constructed to avoid damage or loss to the coastal oaks.

Goleta Slough is an important saltwater marsh, estuary and biological resource, to which the project's source streams are tributary. It has been adversely affected by past projects. The potential adverse impacts to Goleta Slough because of this project would be caused by excessive reduction of instream flows. The conditions for minimum instream flows set forth in finding 3.0 will mitigate these potential impacts.

5.4 Archeological Resources Affected by the Diversion of Water

Six known archeological sites will be affected by the project. Of the six, three are located along the proposed project pipeline route. The other three are located within the West Devereux place of use. The three within the place of use can be mitigated by the County of Santa Barbara as part of its regulation of the housing development thereon. The three sites along the pipeline route, however, will be directly affected by the project's diversion of water. We will condition the permit on mitigation of adverse effects on the archeological resources located along the pipeline route, as recommended in the EIR.

5.5 Effects on Devereux Slough and Coal Oil Point

Devereux Slough and the Coal Oil Point Reserve are adjacent to the project place of use called the West Devereux Specific Plan area. The record shows that Devereux Slough and Coal Oil Point Reserve are

sensitive coastal habitat areas which are inhabited by a wide variety of resident, migratory, and wintering wildlife, including abundant birds. Eight species of birds classified as endangered, rare or threatened occur or may occur in the project vicinity. Numerous other sensitive animal species and sensitive plant species also occur in Devereux Slough, Coal Oil Point Reserve and some sensitive coastal habitat areas within the West Devereux Specific Plan property.

Development of the West Devereux Specific Plan property would increase human presence in the Reserve and in the Slough. This is an adverse impact. Development would also adversely affect feeding and resting activities of animals which currently use the property, and could hinder bird flight. The EIR lists several mitigation measures for the proposed alternative, including fencing sensitive habitats and their setback areas, fencing the southern edge of the developed areas, and limiting structure height in bird flyways. Nevertheless, the EIR states that residual impacts to Devereux Slough and Coal Oil Point Reserve would be significant under this alternative.

Under the Environmentally Superior Alternative, an additional mitigation measure would limit development to those parts of the West Devereux property which are farthest from the sensitive habitats. Under this alternative, Parcels L, M and T would be maintained as open space; existing coastal dependent industry uses would occupy Parcels R and S, and Parcel D would continue to be used for public recreation. The residential uses planned for Parcels N, O, P and Q would be relocated to Parcels A-K. There would be no reduction in the number

of housing units under this alternative, although their density would be greater than under the selected alternative. According to the EIR, under the Environmentally Superior Alternative, there would be no significant adverse impacts of the project on the environment.

If, alternatively, we approved the selected alternative, we would have to make a statement of overriding considerations, explaining the specific reasons that support such an action, based on the EIR or other information in the record. Applicant has proposed a set of four findings of overriding considerations. However, the benefits of the selected alternative listed in three of the proposed findings regarding benefits to schools, housing, and county fiscal standing, do not differ from the benefits of the Environmentally Superior Alternative. The fourth finding, that the selected alternative would reduce existing siltation in Devereux Slough, represents a benefit over the Environmentally Superior Alternative. However, the EIR does not show that this benefit would make infeasible the Environmentally Superior Alternative; nor does it show that this benefit would offset the adverse impacts that would exist under the selected alternative. Further, we have no other evidence in the record that the Environmentally Superior Alternative is infeasible or that this benefit by itself would be an adequate offset. Consequently, we are aware of no findings to support a Statement of Overriding Considerations. Since no appropriate overriding considerations are in the record, we could either (1) require that if water is used in the place of use designated as the West Devereux Specific Plan, the mitigation measures recommended in the Environmentally Superior

Alternative will be applied or (2) withhold approval of the West Devereux place of use until such time as the permittee has an opportunity to demonstrate that overriding considerations exist which will support approval of the selected alternative.

Another agency, the County of Santa Barbara, also has responsibility and jurisdiction to approve and mitigate for development of the West Devereux place of use. The County is the more appropriate agency to make the first decision how and whether certain parts of the West Devereux place of use should be approved for development, because it, as a local land use agency, will have more complete enforcement control over all phases of the residential development than the Board.

Because of the County's appropriate role and the lack of support in the record for the selected alternative, the Board essentially will follow its second option described above. Thus, the Board will withhold approval of the West Devereux place of use until the permittee has obtained approval from the County of Santa Barbara to construct residences on part or all of the place of use, and has demonstrated to the Board that the place of use can be approved within the requirements of the California Environmental Quality Act. A request to authorize the West Devereux place of use should be made in the form of a Petition to Change Place of Use.

5.6

The 11.2 Acre Parcel

The development of the 11.2 acre place of use would have a number of significant adverse environmental impacts which can be avoided. These impacts include geologic hazards, reliability of the quality of the water supply because of the use of groundwater as a supplemental water supply, absence of low-income housing and traffic impacts. However, according to the EIR the impact of airport noise on future project inhabitants cannot be avoided or mitigated. While Table 1.C. of the EIR states that the impact of airport noise on the proposed homes in this parcel would be insignificant once mitigated by sound insulation, the EIR at page VI-105 explains that no feasible noise alteration measures are available to mitigate airport noise levels inside the dwellings, and that residential development would result in a significant unavoidable adverse impact on future inhabitants of the project. Thus, a conflict exists in the final EIR on this point.

Inadequate information is available in the record to determine whether the sound levels that will occur inside the residences are acceptable, and whether any measures in addition to sound insulation of the project's residential units will be needed. Further, another agency, the County of Santa Barbara has responsibility and jurisdiction to require changes or alterations in the 11.2 acre place of use to mitigate for the impacts of noise on the project. The approval of the County of Santa Barbara will be dependent in part on specific local ordinances governing the construction of new residences close to airports. The County of Santa Barbara is the most appropriate agency

to decide how the project noise impacts should be mitigated. Consequently, we will condition our approval of the 11.2 acre place of use for municipal purposes on the receipt of authorization from the County of Santa Barbara, to construct the proposed residences and on compliance with the County's mitigation requirements. Further, we will reserve jurisdiction over the permit issued pursuant to this decision, so that we can if necessary take further evidence and place further conditions upon the use of project water for municipal purposes at the 11.2 acre place of use, after the County of Santa Barbara has approved the construction of residences on the 11.2 Acre Parcel.

5.7 CEQA Compliance

The Board has considered the environmental impacts set forth in the final EIR, and will condition the permit to mitigate the impacts of the diversion and use of water. Consideration of the final EIR prepared by the County of Santa Barbara and adoption of mitigation measures will satisfy the Board's responsibilities under CEQA.

6.0 CONCLUSION

Based on the foregoing findings, we conclude as follows:

- a. The available evidence shows that there is inadequate water available from the project to supply the entire project. Thus we are unable to conclude that sufficient unappropriated water is available to supply the entire project. However, we conclude that sufficient water is available to partially supply the project, and that with the proposed supplementation from groundwater, the project will be adequately supplied.

- b. The project diversions, as we have approved them, will have no adverse effect on prior water rights.
- c. We have mitigated the adverse environmental effects of the diversion and use of water as part of the project.
- d. The purposes of use are beneficial.

ORDER

IT IS HEREBY ORDERED THAT Application 26813 be approved and a permit be issued to the applicant subject to prior rights and the following terms and conditions:

- 1. This permit is subject to standard permit terms 5i, 6, 7, 8, 9, 10, 11, 12, and 13, in addition to the following terms and conditions.
- 2. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed:
 - a. 0.77 cubic feet per second by direct diversion from January 1 through December 31 of each year;
 - b. 324 acre-feet per annum to be collected from December 31 of each year to May 1 of the succeeding year as follows: 140 acre-feet per annum in Reservoir No. 1, 92 acre-feet per annum in Reservoir No. 2, and 92 acre-feet per annum in Reservoir No. 3.

3. The maximum combined rates of direct diversion and diversion to offstream storage authorized at the three points of diversion are as follows: 1200 gallons per minute at Weir No. 1, 1500 gallons per minute at Weir No. 2, and 500 gallons per minute at Weir No. 3.
4. The total combined direct diversion and diversion to storage shall not exceed 490 acre-feet per annum.
5. Permittee shall bypass the following flows:
 - a. At Weir No. 1, bypass all flow in excess of 25 gallons per minute when the flow below Weir No. 2 is less than 50 gallons per minute, and bypass all flow in excess of 50 gallons per minute when the flow below Weir No. 2 is between 50 and 60 gallons per minute.
 - b. At Weir No. 2, bypass 60 gallons per minute.
 - c. At Weir No. 3, bypass 170 gallons per minute or the natural flow of the stream, whichever is less.
6. Construction of the water diversion, conveyance, treatment, and delivery facilities shall be completed by December 1, 1990.
7. Complete application of water to the authorized use shall be made by December 1, 1997.
8. Permittee shall install and maintain measuring devices which meet the approval of the Chief, Division of Water Rights of the State Water Resources Control Board to measure (a) the diversions authorized by this permit and (b) the bypass flows required by this permit.

9. Permittee shall consult with the Division of Water Rights and the Department of Water Resources and develop and implement a water conservation plan or actions. The proposed plan or actions shall be presented to the Board for approval within one year from the date of this permit or such further time as may, for good cause shown, be allowed by the Board. A progress report on the development of a water conservation plan may be required by the Board within this period.

10. No construction of the project or use of water under this permit is authorized until the Chief, Division of Water Rights, has acknowledged in writing having received satisfactory evidence that the permittee has obtained a domestic water supply permit from the Department of Health Services.

The Board reserves jurisdiction over this permit to amend this condition. Action by the Board will be taken only after notice to interested parties and an opportunity for hearing.

11. Permittee shall divert water only at the points of diversion specified in this permit.

12. Permittee shall cause the reservoirs and appurtenant facilities to be designed and constructed under the direction of a licensed civil engineer, with due consideration given to potential impacts from earthquake damage and seismic action.

13. Permittee shall implement and comply with all erosion control measures required by the County of Santa Barbara, in order to minimize impacts due to erosion during and after construction of this project.

14. Permittee shall obtain and comply with Water Course Obstruction Permits from the Department of Fish and Game to cover those portions of the project that are to be constructed within or adjacent to a stream course.
15. Permittee shall employ the construction method for placement of the pipeline through the sensitive areas from Weir No. 1 downstream on McCoy Creek as specified in the FEIR dated July 1984, page V-42. The conditions of this method are as follows:
 - a. No vehicular access shall be constructed within sensitive habitat areas.
 - b. Equipment and material shall be transported without the use of surface vehicles.
 - c. Where undergrowth is too thick to permit foot traffic for pipeline construction, a 5-foot wide path may be cleared by hand.
 - d. No trees, including willows, shall be removed.
 - e. Poison oak may be removed from the foot path as required to permit access.
 - f. Pipeline construction shall be above ground on pylon anchors except at road crossings where it may be underground.
16. Permittee shall design and construct the reservoirs and appurtenant facilities in such a manner that there will be no damage or loss to the coastal live oak woodlands.
17. Permittee shall have a qualified archeologist establish the boundaries of the three archeological sites near the proposed pipeline route. The

boundaries shall be clearly marked. Construction activities shall not damage the sites. If any previously unrecorded cultural resources are unearthed during construction, an archeologist shall be consulted to determine the significance of the resource and prepare a mitigation plan if required.

18. No water shall be used under this permit until all necessary state and local approvals have been obtained and permittee has complied with all state and local requirements regarding impacts to cultural resources and environmentally sensitive areas.
19. No water shall be appropriated until a permanent organization has acquired the water rights granted hereunder and any additional rights to use such supplemental water as is necessary to operate the project and which will, to the Board's satisfaction, properly operate and maintain the permittee's water supply system.
20. 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 any waste discharge requirements imposed by the California Regional Water Quality Control Board, Central Coast Region, or by the State Water Resources Control Board.
21. No water shall be used under this permit until the permittee has filed a report of waste discharge under the California Regional Water Quality

Control Board, Central Coast Region, pursuant to Water Code Section 13260, and the Regional Board or State Water Resources Control Board 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 State Board are being met. No discharges of waste to surface water shall be made unless waste discharge requirements are issued by a Regional Board or the State Board. A discharge to ground water without issuance of a waste discharge requirement may be allowed if after filing the report pursuant to Section 13260:

- a. The Regional Board issued a waiver pursuant to Section 13269, or
- b. 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 the groundwater of water resulting from the irrigation of crops.

Failure of permittee to comply with this term will subject the permit to revocation, after opportunity for hearing.

22. The requested place of use called the West Devereux Specific Plan, as identified on Plate 3 of the FEIR of July 1984 is not approved herein, and shall not be approved until such time as the Board has approved a change of place of use to include the West Devereux Specific Plan as a place of use for water appropriated under this permit. Any petition for change of place of use to add part or all of the West Devereux Specific Plan shall, in addition to other requirements of the Board, include satisfactory evidence that the County of Santa Barbara has approved use of the requested place

of use and that the place of use can be approved within the requirements of the California Environmental Quality Act..

23. No construction and no use of water appropriated under this permit on the 11.2 Acre Parcel (Pacific Oaks townhouses) is authorized by this permit until the Chief, Division of Water Rights, has acknowledged in writing having received satisfactory evidence that the County of Santa Barbara has approved construction of the Pacific Oaks townhouses on the 11.2 Acre Parcel.

The Board reserves jurisdiction over this permit to amend this condition after notice to interested parties and an opportunity for hearing.

24. Except for the West Devereux Specific Plan area, the places of use requested in Application 26813 are approved.

CERTIFICATION

The undersigned, Administrative Assistant to the 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 20, 1986.

AYE: W. Don Maughan, Chairman
Darlene E. Ruiz, Vice Chairwoman
Edwin H. Finster
Eliseo Samaniego

NO: None.

ABSENT: Danny Walsh

ABSTAIN: None.


Maureen Marche
Administrative Assistant to the Board

