



DWR Prosecuting Team  
Exhibit 11

-1933

Mailing Address: P.O. Box 2000 - Sacramento, California - 95812-2000  
FAX (916) 657-1485 • Web Site Address: <http://www.swrcb.ca.gov>  
Division of Water Rights: <http://www.waterrights.ca.gov>

Gray Davis  
Governor

Winston H. Hickox  
Secretary for  
Environmental  
Protection

AUG 29 2000

In Reply Refer  
To:341:WCS:26305, 26306, 26307

Emmerson Investment, Inc.  
c/o Jack G. Frost  
PO Box 496014  
Redding, CA 96049-6014

Dear Mr. Frost:

PERMITS 19163, 19164, AND 19165 (APPLICATIONS 26305, 26306, AND 26307)  
SHASTA RIVER IN SISKIYOU COUNTY

On June 13, 2000, I conducted a field inspection of the water diversion projects covered by the above permits. I was accompanied by ranch foreman Pete Scala and Department of Water Resources watermaster Keith Dick. Subsequent to my visit, I gave you a call and we discussed my findings and recommendations, so this letter will be a fairly brief written summary of needed actions on your part.

These three permits cover diversions of water surplus to that distributed in accordance with the Shasta River Adjudication. These are generally early season flows resulting from leakage at the dam for Lake Shastina. The primary supplies of irrigation water for the places of use of these permits, Seldom Seen Ranch and Hole-In-The Ground Ranch, are waters covered by your adjudicated rights, which are "banked" for you in Lake Shastina.

The project under Permit 19163 utilized Diversion No. 156 of the adjudication to serve the Seldom Seen Ranch. This diversion has not been used for approximately 15 years and is in disrepair. A groundwater well has been used to irrigate this ranch (or at least portions of it) so that the "banked water" allotted this ground can be transferred to the Hole-In-The-Ground Ranch. This transfer is done informally with the watermasters' knowledge since no other water uses are adversely affected. Consequently, the project under Permit 19163 has been abandoned, the permit is unneeded, and I have recommended that it be revoked. Enclosed is a form for your signature and return which will authorize this revocation.

The projects under Permits 19164 and 19165 utilize Diversions 165 and 166 of the adjudication to serve portions of the Hole-In-The-Ground Ranch. Construction and use of water under these permits are complete but the projects are not ready for license because 1) measuring devices required by term 17 of each permit have not been installed. These devices are intended to

*W.C. Smith*  
8-28-00

*Skanda*  
5/28/00

show at a glance that the minimum 1 cubic foot per second (cfs) is being bypassed below each diversion point, and 2) no records have been kept of the amount of surplus water diverted under each permit. Such records of historical use are needed so that we may calculate the rate of diversion during the maximum month, the total acre-feet diverted during the maximum season, and to determine the season of diversion.

During my inspection, Mr. Dick indicated that he would work with Mr. Scala to devise a scheme for measurement of the 1 cfs fish bypass for each of the two diversions. He also said that he could use the existing 24" Parshall flume at the head of each ditch system to measure the amount of water being diverted and keep records of such measurements.

Licenses issued on Permits 19164 and 19165 will be based on measurements taken in future years. Since the time to complete use of water under each of these permits expired on December 31, 1995, extensions of time will be required. (Incidentally, the last extensions of time were granted in 1991 to former owner Gene Davis, also to keep diversion records for licensing.)

In view of the fact that your projects are not yet in compliance with the fish bypass measuring device requirement, I have recommended that extensions of time be denied until compliance is achieved.

You are hereby requested to submit, for my approval, a plan and an installation schedule for these measuring devices within 60 days of the date of this letter. Any future diversion of surplus water without an approved measuring device at either diversion would be in violation of term 17 of these permits and could result in administrative civil liability fines of \$500.00 per day. I'm sure you will want to take care of this matter before the next irrigation season commences so you can divert any surplus water that is available. Depending on the type of measuring device selected, some or all necessary construction may be most easily accomplished during low flows at the end of the current irrigation season.

I suggest that you formally request Mr. Dick's services for the next few years for making diversion measurements and keeping records for each diversion as follows: (1) the dates surplus water is diverted, (2) the corresponding head on the flumes, and, (3) if necessary, a calculation to determine how much of said water is surplus flow and how much is "banked" water released at your request from Lake Shastina. A copy for our files of your written request for watermaster assistance in making diversion measurements and keeping diversion records would be appreciated. Ideally such records would be submitted by you annually along with the Progress Report by Permittee which we will mail to you at the end of each year. It is likely that such a reporting requirement will be imposed as a condition of receiving extensions of time on Permits 19164 and 19165. I suggest that both you and Mr. Dick also keep a copy of such records in your own files.

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Emmerson Investment, Inc.

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Please give me a call at (916) 657-1933 if you have any questions. I will be looking for your plans for fish bypass measuring devices. I may need to visit the projects after installation of the devices to see how they are working. Once I have received and approved your plans, I will forward forms for your completion and submittal with the required fees to request extensions of time.

Sincerely,

ORIGINAL SIGNED BY

Wayne C. Smith  
Associate WRC Engineer

cc: Pete Scala  
Shasta Springs Ranch  
21305 Slough Road  
Weed, CA 96097

Keith Dick  
9106 Airport Road  
Montague, CA 96064

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