

EXHIBIT 9

State of California

MEMORANDUM

TO: 1. Roger E. Dupuis *Concurs RED 1-14-93*
2. Murt K. Lininger *& concurs, M. D.*
3. Roger T. Johnson
4. Edward C. Anton

DATE: January 14, 1993

Yoko Mooring

Yoko Mooring
Sanitary Engineering Technician
Application Unit #1

FROM: DIVISION OF WATER RIGHTS
STATE WATER RESOURCES CONTROL BOARD

SUBJECT: AUTHORIZATION TO ACCEPT AN APPLICATION IN A FULLY APPROPRIATED STREAM SYSTEM
PURSUANT TO EXCEPTION CONDITIONS SPECIFIED IN BOARD ORDER 91-07

This is a request for your written approval to accept an application to appropriate 0.062 cubic foot per second (cfs) from a fully appropriated stream; Sacramento-San Joaquin Delta upstream and the Tuolumne River in Tuolumne County. State Board Orders WR 89-25 and WR 91-07 identify the Sacramento-San Joaquin Delta watershed upstream from the Delta as fully appropriated between June 15 and August 31 (Decision 1594), and the Tuolumne River upstream from Don Pedro Reservoir as fully appropriated between July 1 and October 31 (Decision 995). However, Section 5.0 of Board Order WR 91-07 sets guidance for administering the declaration and specifically allows an exception to accepting an application on a fully appropriated stream where water is made available under an Exchange Agreement (Section 5.1).

Application 29977 by G. Scott Fahey seeks to appropriate water year round by direct diversion for industrial purposes (bottled water) from two springs which are tributary to the Tuolumne River thence the Delta water system. Decision 995 found that the Modesto Irrigation District and the Turlock Irrigation District hold water right licenses to appropriate all of the flow of the Tuolumne River water for power purposes from July through October of each year. The applicant, therefore, entered into a water exchange agreement with the districts for the period from June 15 to October 31 of each year, when water is not available for appropriation in the Tuolumne River and the Sacramento-San Joaquin Delta system. Any water that the applicant diverts pursuant to Application 29977 during this period will be replenished into the Roger Creek arm of Lake Don Pedro by pumping an equal amount of groundwater from a well located in the SW1/4 of NE1/4 of NE1/4 of Section 8, T3S, R15E, MDB&M. The agreement was executed on December 12, 1992.

If you agree with the above-described exception to the Declaration of Fully Appropriated Stream Systems, please execute the attached Statement for Files.

Attachment