

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Temporary )  
Urgency Permit 1724 (Appli- )  
cation 25537) of San Juan )  
Basin Authority to Appro- )  
priate water from the )  
underflow of San Juan Creek )  
in Orange County )

ORDER NO 78-7

Source: San Juan Creek

County: Orange

FINDINGS AND ORDER VALIDATING THE  
ISSUANCE OF TEMPORARY URGENCY PERMIT

San Juan Basin Authority (permittee) having filed Application 25537 for a temporary, urgency permit to appropriate unappropriated water pursuant to Chapter 6.5, Part 2, Division 2 of the Water Code; the Board having consulted with the California Department of Fish and Game; Board Chairman Bryson having concluded from the available information that the permittee was entitled to a temporary permit to appropriate water subject to review and validation by the Board as provided by Water Code Section 1425; the Board finds as follows:

Substance of the Application

1. Application 25537 is for a temporary permit to appropriate 3,000 acre-feet to storage from the underflow of San Juan Creek in Orange County for the period from January 15, 1978 to July 14, 1978 for recreational use. The water will be diverted from eight wells in the lower San Juan Basin.<sup>1/</sup> The location of the points of diversion are indicated in Appendix A.

<sup>1/</sup> The lower San Juan Basin consists of those alluvial deposits downstream of the confluence of San Juan Creek and Arroyo Trabuco.

## Background

2. The Mission Viejo Company (company) constructed an artificial lake called Lake Mission Viejo as part of a real estate development in Orange County. The Company has partially filled Lake Mission Viejo with water supplied by member agencies of the Metropolitan Water District of Southern California. On March 2, 1977, through its Decision 1463, the Board concluded that the proposed filling of Lake Mission Viejo under the then current circumstances constituted both a waste and an unreasonable use of water in violation of Section 2, Article X of the California Constitution. The Board ordered the company to cease filling Lake Mission Viejo Company. On June 16, 1977 the Board modified Decision 1463 by concluding that the filling of Lake Mission Viejo with water to be extracted from the lower San Juan Creek alluvial deposits, as proposed by the Company, did not constitute violation of the Constitutional constraints noted above and ordered Decision 1463 and the order contained therein modified accordingly. Application 25537 is for the temporary permit necessary to implement the Company's proposal.

3. On January 20, 1978 the Company requested relief from Decision 1463 in order to fill Lake Mission Viejo to its designed capacity with water to be purchased from the Metropolitan Water District. At a special Board Meeting on February 2, 1978, the Board, by motion, authorized the Company to fill Lake Mission Viejo one time with water from the Colorado River System.

4. Recent contacts with the Company indicate that the filling of Lake Mission Viejo will take a considerable period of time because of the limited capacity of the conveyance facilities to the Lake from the member agencies of the Metropolitan Water District. The Company still requests the issuance of a temporary permit, because the addition of water from the two sources will allow Lake Mission Viejo to be filled much faster.

#### Existence of Unappropriated Water

5. The San Juan Creek watershed consists of San Juan Creek and its major tributary - Arroyo Trabuco. Arroyo Trabuco has one major tributary - Oso Creek. San Juan Creek is tributary to the Pacific Ocean. The San Juan Creek has a total drainage area of over 177 square miles.

6. The rainfall and runoff vary greatly in this area. During the period from 1951 through 1968 the average flow at a United States Geological Service (U.S.G.S.) gauge was 10,500 acre-feet. The median value at this gauge was 3,500 acre-feet per year.<sup>2/</sup> In addition, there are substantial subsurface inflows: under historic high ground water levels, inflows from San Juan Creek and Arroyo Trabuco are estimated to be 2,600 acre-feet/annum. (afa). ; under historic low ground water levels, inflows from both creeks are estimated to be 1,210 afa; under groundwater levels in March 1977, inflows were estimated to be 2,100 afa. Some of these subsurface inflows may become rising water downstream

<sup>2/</sup> This gauge had a drainage area of 106 square miles. It has been moved 2.8 miles downstream.

of the confluence of San Juan Creek and Arroyo Trabuco and therefore may be measured in the surface water gauges.

7. There are about forty abandoned wells in the lower San Juan Creek area, and two wells are presently active. These two wells irrigate a total of about 117.6 acres of truck and citrus crops. These crops have a net water requirement of about 310 afa. Upstream in the Arroyo Trabuco alluvium there are ten active wells, but all except one are greater than one mile upstream of the confluence of Arroyo Trabuco and San Juan Creek.

8. The applicant proposes to supply all water necessary to the existing irrigators in the lower San Juan Basin. The applicant expects that impacts on upstream users will be minimal, but in the event water levels are lowered, the applicant proposes to compensate the affected owners for any increase in pumping costs. Since the permittee proposes to satisfy the water requirements for all present users or to provide other compensation and since the quantity of water available is more than sufficient to satisfy the present water requirement of present water users and of the permittee, there is unappropriated water available to supply the permittee.

Effect of the Proposed Diversion on  
any Lawful User of Water and the  
Rights of Downstream Users

9. As explained above, the proposed diversion does not adversely effect other users of water because of the proposed mitigation measures of the permittee.

10. A Notice of Application, dated December 23, 1977, was sent to the permittee on the same date. The permittee published said Notice in accordance with the provisions

of Chapter 6.5, Part 2, Division 2 of the Water Code.  
No objections to the issuance of the subject permit were received within the thirty day objection period.

The Permittee has an Urgent  
and Temporary Need to  
Appropriate Water

11. The Mission Viejo Company prepared a report entitled "Status Review and Recommendations for Lakefill Project: Lake Mission Viejo", dated January 31, 1978. The report documents the extensive physical damage to the Lake caused by its unfilled condition. This damage includes erosion of the sides of Lake Mission Viejo, the growth of nuisance plants on the lake bottom, the growth of terrestrial weeds on the exposed sides of the lake, and the propagation of algae. The Mission Viejo Company acting through the permittee has an urgent but only temporary need to fill the lake to prevent the continuance of this physical damage to Lake Mission Viejo. Upon the filling of Lake Mission Viejo, the only addition of water that will be necessary is water to replace losses from evaporation or seepage.

Effect of the Proposed Diversion  
on Fish, Wildlife and other  
Instream Beneficial Uses

12. The Board contacted the California Department of Fish and Game prior to the issuance of Permit 17248. The California Department of Fish and Game has issued a streambed alteration agreement in accordance with Fish and Game Code Section 1601. This agreement places certain conditions concerning the timing and conduct of construction activities

in San Juan Creek. The permittee has complied with said conditions and the California Department of Fish and Game considered the adverse impacts of installation of the pipeline to be minor. They also concluded that the drawdown of water from pumping would not effect the riparian vegetation, because the rainfall has been high. The Board concludes that the short term disruption of habitat by the installation of the pipeline, while adverse, is not an unreasonable effort upon fish, wildlife, or other instream uses and that there are no other impacts on fish and wildlife resources caused by the project.

Findings Concerning the  
California Environmental  
Quality Act

13. The permittee certified a final EIR on the project on September 14, 1977. As the EIR indicates the major environmental concern is the possibility of sea water intrusion. Although the final EIR identified this possibility as very remote, the final EIR further indicated that ground water monitoring could detect this possibility at the coast and a reduction or elimination of pumping could restore normal seaward gradients. Permit terms 14-18 of Permit 17248 require the permittee to undertake a comprehensive ground-water monitoring program to assure that sea water intrusion is prevented or at least detected soon after it begins.

14. The final EIR identifies the following significant, unavoidable environmental effects of the project:

- (a) Land Use. The pipeline will use land which is primarily agricultural.

- (b) Ground Water. Ground water levels in the area of extraction will be temporarily drawn down with a possibility of sea water intrusion.
- (c) Lake Mission Viejo. The quality of the water in Lake Mission Viejo will be degraded.
- (d) Vegetation and Wildlife. There will be a short term disruption and loss of habitat.
- (e) Climate and Air Quality. Dust and vehicle emissions will be generated during construction.
- (f) Noise. Construction equipment noise levels may temporarily affect residents adjacent to the project.
- (g) Utilities and Service. The Project will place a demand on energy supplies which are largely in the form of non-renewable fossil fuels.
- (h) Aesthetic and View Considerations. The drilling operations and the finished well field may be unsightly.

15. The Board makes the following findings concerning the impacts indicated in Finding 14 above:

- (a) Land Use. This adverse impact is an unavoidable impact.
- (b) Ground Water. As explained in Finding 13 above, this impact has been mitigated or avoided by the inclusion of appropriate permit terms.
- (c) Lake Mission Viejo. This adverse impact is an unavoidable impact of using poor quality water

to finish filling Lake Mission Viejo. However, the resulting water quality in Lake Mission Viejo will be satisfactory for the proposed recreational use.

(d) Vegetation and Wildlife. This adverse impact is more fully discussed above in Finding 12.

(e) Climate and Air Quality The generation of dust and vehicular air pollutants is, in part, an unavoidable impact of any construction activity. The permittee mitigated the adverse impacts of dust generation by watering during grading operations.

(f) Noise. This adverse impact is, in part, an unavoidable impact. However, the permittee was required to comply with applicable local noise control ordinances, which prohibited construction or grading activities between the hours of 8:00 p.m. and 7:00 a.m. weekdays and Saturday and at any time on Sunday or a Federal holiday.

(g) Utilities and Service. This adverse impact is, in part, unavoidable. However, the demand on energy supplies is much less under the proposed project than the demand for energy if the water were supplied from Northern California or from the Colorado River.

(h) Aesthetic View Considerations. This is an unavoidable impact.



16. The Board further finds that for those unavoidable impacts the economic and social benefits of the project outweigh the unavoidable adverse environmental effects.

Action by Board Chairman Bryson

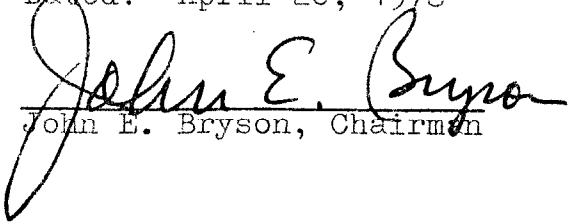
17. On April 12, 1978, the staff explained the foregoing situation to Board Chairman Bryson and recommended approval of the attached temporary permit. Board Chairman Bryson concurred with the staff recommendation and on April 12, 1978 he authorized the issuance of a temporary permit. On the same date, Temporary Permit 17248 was issued.

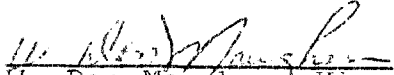
NOW, THEREFORE, IT IS ORDERED THAT:


1. The Board following the review of the record validates the issuance of Temporary Permit 17248.

Dated: April 20, 1978

WE CONCUR:

  
John E. Bryson, Chairman

  
W. Don Maughan, Vice  
Chairman

  
W. W. Adams, Member