

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 22905  
of Theodore P. Pierce and Margaret M.  
Pierce to Appropriate from Mt. Charlie  
Creek in Santa Cruz County

Decision 1340

DECISION APPROVING APPLICATION

Theodore P. Pierce and Margaret M. Pierce having filed Application 22905 for a permit to appropriate unappropriated water; protests having been received; the applicants and protestants 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 stipulation; the Board, having considered all available information, finds as follows:

1. Application 22905 is for a permit to appropriate 0.017 cubic foot per second (cfs) by direct diversion from January 1 to December 31 of each year for domestic and irrigation purposes from Mt. Charlie Creek, tributary to Zayante Creek and thence San Lorenzo River, in Santa Cruz County. The point of diversion is to be located within the NE $\frac{1}{4}$  of NW $\frac{1}{4}$ , Section 29, T9S, R1W, MDB&M.

1340

2. Application 22905 was protested by the California Department of Fish and Game, the San Lorenzo Valley County Water District and the City of Santa Cruz. The Department of Fish and Game withdrew its protest when the amount applied for was reduced to 0.017 cfs from 0.05 cfs.

3. Protestant San Lorenzo Valley County Water District has a right to divert 0.078 cfs from January 1 to December 31 of each year from Zayante Creek under License 6031 issued upon Application 5055. However, the district is presently meeting its entire requirements from a recently developed underground source and future diversions from Zayante Creek will probably be minimal or nonexistent.

4. Protestant City of Santa Cruz has a right to divert 12.2 cfs from January 1 to December 31 of each year from the San Lorenzo River under Licenses 1553 and 7200 issued upon Applications 4017 and 5215. The city also obtains water from Newell Creek and from various other streams and springs. However, since the waters of the San Lorenzo River require a higher degree of treatment than water from other sources, the city diverts from the San Lorenzo River only when necessary.

A U.S.G.S. gaging station is located on the San Lorenzo River approximately four miles upstream from the city's point of diversion. A comparison of flows at the gaging

station and the amount of water pumped by the City of Santa Cruz for the period 1958-1967 shows that there was only one month when the city pumped an amount greater than the minimum flow recorded at the gaging station. In all other months the minimum flow was in excess of the amount pumped by the city. Also, in recent years the city has pumped less water from the San Lorenzo River than in previous years.

5. Unappropriated water is available to supply the applicants, and, subject to suitable conditions, such water may be diverted and used in the manner proposed without causing substantial injury to any lawful user of water.

6. The intended use is beneficial.

From the foregoing findings, the Board concludes that Application 22905 should be approved and that a permit should be issued to the applicants subject to the limitations and conditions set forth in the order following.

The records, documents, and other data relied upon in determining the matter are: Application 22905 and all relevant information on file therewith, particularly the report of field investigation made on January 29, 1969.

ORDER

IT IS HEREBY ORDERED that Application 22905 be, and it is, approved, and that a permit be issued to the applicants subject to vested rights and to the following limitations and conditions:

1. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 0.017 cubic foot per second by direct diversion to be diverted from January 1 to December 31 of each year.

2. The maximum quantity herein stated may be reduced in the license if investigation warrants.

3. Actual construction work shall begin on or before December 1, 1969, and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted this permit may be revoked.

4. Said construction work shall be completed on or before December 1, 1971.

5. Complete application of the water to the proposed use shall be made on or before December 1, 1972.

6. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the State Water Resources Control Board until license is issued.

7. All rights and privileges under this permit, including method of diversion, method of use and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water and to carry out legally established water quality objectives.

8. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.

9. Upon a judicial determination that the place of use under this permit or a portion thereof is entitled to the use of water by riparian right, the right so determined and the right acquired under this permit shall not result in a combined right to the use of water in excess of that which could be claimed under the larger of the two rights.

Adopted as the decision and order of the State  
Water Resources Control Board at a meeting duly called and  
held at Sacramento, California.

Dated: June 5, 1969

KERRY W. MULLIGAN  
Kerry W. Mulligan, Chairman

W. A. ALEXANDER  
W. A. Alexander, Vice Chairman

NORMAN B. HUME  
Norman B. Hume, Member

E. F. DIBBLE  
E. F. Dibble, Member

RONALD B. ROBIE  
Ronald B. Robie, Member