STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Applications 12918 and 19351 of SONOMA COUNTY WATER AGENCY to Appropriate from Dry Creek and Russian River in Sonoma County	Decision 1416

DECISION APPROVING APPLICATION IN PART

By Board Members Dibble and Robie:

Sonoma County Flood Control and Water Conservation District (which is now the Sonoma County Water Agency) having filed amended Applications 12918 and 19351 for permits to appropriate unappropriated water; protests having been received; a public hearing having been held before the State Water Resources Control Board on February 25, 1970; applicant and protestants having appeared and presented evidence; the evidence received at the hearing having been duly considered, the Board finds as follows:

Disposition of Application 12918

1. Applicant received an assignment of the original Application 12918 which had been filed by the State pursuant to Part 2, Division 6 of the Water Code. As amended by the applicant, Application 12918 is for a permit to divert the same water and put it to the same beneficial use by constructing and operating

the same facilities as described in Application 19351, except for somewhat lesser quantities specified for direct diversion and storage. With two nearly identical applications for one project, the applicant must have intended at some stage of the proceedings to select one application to pursue and to abandon the other, which applicant did by requesting in the brief it filed that a permit be issued pursuant to Application 19351 only. Therefore amended Application 12918 should be rejected and canceled as the applicant has no intent and will not be able to put the water applied for to beneficial use as proposed in the application.

Substance of Application 19351

2. Amended Application 19351 is for a permit to appropriate 290 cubic feet per second (cfs) by direct diversion from January 1 to December 31 of each year and 320,000 acre-feet per annum (afa) by storage from October 1 of each year to May 1 of the succeeding year for domestic, industrial, municipal and recreational purposes, from Dry Creek and Russian River in Sonoma County. The point of diversion to storage is described as Warm Springs Dam on Dry Creek (Lake Sonoma) with a capacity of 375,000 acre-feet, within the SE¼ of SW¼, Section 7, T10N, R10W, MDB&M. The applicant, in its brief, reduced its request for storage to 245,000 afa. According to the application, water released from storage will flow down the natural channels of Dry Creek and the Russian River for rediversion at various

points along these channels. The major points are the intakes and pumping plants of the District's water transmission system. Water will also be diverted directly without storage at the same points. Proposed points of rediversion of water released from storage and points of direct diversion on Russian River are within the NE¼ of SW¼, Section 29, T8N, R9W (Wohler Intake); NW¼ of SE¼, Section 31, T8N, R9W (Mirabel Park Intake); SW¼ of NW¼, Section 7, T7N, R10W (Monte Rio Intake); and SE¼ of NE¼, Section 33, T9N, R9W (Healdsburg Intake).

Applicant's Project

3. The Russian River Project is a comprehensive plan for maximum beneficial development of water in the watershed for use in an extensive, well-populated, fast-growing area north of San Francisco. It involves 19 units. The first unit has been constructed, which is Coyote Dam and Lake Mendocino together with certain distribution systems. Warm Springs Dam and Lake Sonoma, the second unit, is already under construction by the United States Corps of Engineers. Applicant has contracted for the conservation storage being built into Lake Sonoma, a necessary prerequisite to obtaining federal authorization for construction funding.

Besides Coyote Dam costs, a bond issue in the amount of $8.5 million was placed before voters in 1955 to finance construction of a water transmission and distribution system. It was approved by a margin of 3 to 1.

Subsequently, four contracts were signed with water user agencies and four aqueducts were constructed with the 1955 bonds. These are:

1. Santa Rosa Aqueduct - City of Santa Rosa.

2. Petaluma Aqueduct - City of Petaluma and North Marin County Water District.

3. Sonoma Aqueduct - City of Sonoma and Valley of the Moon County Water District.

4. Forestville Aqueduct - Forestville County Water District.

In addition, with separate financing, the North Marin County Water District constructed a connecting aqueduct between Petaluma and Novato (Applicant's Exhibit No. 6, pages 40-41).

These aqueducts were sized to satisfy demand through 1980 although additional aqueducts, such as the Sonoma-Marin Aqueduct are planned later (Applicant's Exhibit No. 6, page 41). Thus, additional water may be transported through existing facilities using the same points of diversion or rediversion already being utilized.

In addition to diversion into the aqueduct at Wohler Intake, releases from Warm Springs Reservoir will firm up flows in the Russian River for rediversion by all individually owned pumps. Separate contracts are not to be executed for payment by these users but costs are to be recovered through a county-wide ad valorem tax. Releases from storage will also be used to help maintain recreational flows and a minimum of 125 cfs for fish in the Russian River at Guerneville.

Demands for water from the Russian River Project have been estimated through the year 2020 at 395,700 afa and through 1990 at 148,400 afa. Firm project yield of the first stage of the Coyote Project and Warm Spring Project would be 175,000 afa. After about 1990 the second stage of the Coyote Project would be brought on line and this would be followed by imports from the Eel River, if authorized (Applicant's Exhibit No. 6, page 26), or by the large Knights Valley Reservoir (already authorized).

Allocated conservation cost of the first stage of the Coyote Project was $5,650,000 and was prepaid in a lump sum from the sale of general obligation bonds.

The most recent estimate of cost of the Warm Springs Project is $74 million of which $22 million is allocated to conservation storage of 212,000 acre-feet (RT 111). Sonoma County already has authority to raise the necessary funds for conservation features of this project (RT 129, 130) and considers it financially feasible (RT 128).

Availability of Unappropriated Water for Storage

5. Applicant reported estimated flow into Lake Sonoma during the 49-year period of record, 1915-16 through 1963-64. The maximum annual flow was 384,000 acre-feet, the lowest was 25,000 acre-feet and the 49-year mean was 154,000 acre-feet (RT 57).

USGS records show that practically all of this occurs during the season applicant has requested storage in Application 19351 (October 1 to May 1).

The firm yield of the project was estimated to be 115,000 afa (RT 19). Hence, a conservation storage capacity of 212,000 acre-feet is far greater than the mean annual runoff (154,000 afa) and provides carry-over capacity to help maintain the firm yield.

Department of Fish and Game Protest

6. An agreement between the Department of Fish and Game and the Sonoma County Water Agency was signed on February 24, 1970, so the department's protest should be dismissed and the permit made subject to the provisions of the agreement.

Other Protests

7. Over forty protests were filed by individuals located along Dry Creek below Warm Springs Dam. Without exception, these protestants stated that their protests could be dismissed if applicant would agree to release water from Warm Springs Dam to satisfy their needs as they have been supplied historically.

According to applicant, corroborated by the Board's geologist, the bottom lands along Dry Creek are underlain by gravels. Water users who have wells in these gravels are actually drawing from underflow of the stream. Applicant has defined the limits of the land overlying these gravel strata

in its brief submitted after the hearing and has agreed to furnish water free of charge and unrestricted in amount to all lands overlying this gravel sub-strata (RT 32). Applicant has also agreed to furnish water for all existing riparian, appropriative and other rights in a like manner (RT 32, 38, 39, 70, 71, 72, 75, 76, and 86).

During the summer, Dry Creek is normally reduced to scattered surface pools and underflow (RT 70). If applicant maintains a live surface stream of at least 25 cfs from the dam down to the mouth of Dry Creek during the entire year pursuant to its agreement with the Department of Fish and Game, the protestant users along the creek will be better off in that they will be assured a stable supply to their wells in addition to a live surface stream, something they did not have before (RT 32). Therefore, the protests are not a bar to approval of the application.

Change in Character of Use

8. Application 19351 is for domestic, industrial, municipal, and recreation uses. In order to serve agricultural users, irrigation should be added to this application as a character of use. Applicant does not want irrigation included because of complications that might arise in its contractual relations with the U. S. Corps of Engineers. The fact still remains that many of the individually owned pumps which will be diverting released stored water will be using the water for irrigation, and this should be included in the permit at such time as consumptive uses of water are allowed as discussed later.

Water Quality

9. The Russian River was originally a clear stream which was very picturesque and attractive to vacationers in their recreational pursuits. In recent years, however, the stream has become more and more subject to the growth of algae, which colors the water green as the summer season progresses.

Ranney collectors, which take only water filtered through riverbed gravel, are used by applicant now and are proposed for future domestic and municipal use for water exported out of the watershed to Sonoma and Marin counties via the Wohler Intake and other points of diversion which are proposed. Therefore algae does not yet constitute a severe problem in operation of the project for these uses. However, it has been decided that the present minimum flow of 125 cfs in the main stem is less than is desirable (RT 90). Another 50 or 75 cfs from the Warm Springs Project would bring the river level to more desirable minimum quality limits at Guerneville (RT 90).

There can be no doubt that the greenish color and turbidity detract from the esthetic enjoyment of the Russian River during the late summer, particularly in the lower reaches. A major source of nutrients that contribute to the algae growth potential of the river is seepage from local sewer outlets and return flow from irrigation. An example of the latter is the use for irrigation of effluent originating at the City of Santa Rosa's sewage treatment plant which is discharged into Santa Rosa Creek.

Waste discharge requirements have been established for the major towns and cities in the watershed, but no effective control is exercised over the numerous individuals releasing seepage effluent from septic tanks and other domestic outlets or over irrigation return flows.

Guidelines for water quality control together with plans and facilities required for its implementation are contained in the Interim Water Quality Control Plan for the North Coastal Basin 1-B dated June, 1971, prepared by the California Regional Water Quality Control Board, North Coast Region. The Russian River Drainage Basin, as part of this area, is included. The interim plan is intended to serve as a guide for water quality management and for waste treatment plant construction during the next two years, or until completion of comprehensive basin and regional plans which are now under preparation.

The Dry Creek Project envisioned by the Sonoma County Water Agency will be compatible with the interim plan for the Russian River Drainage Basin. In fact, the added water will only tend to contribute additional dilution capability to Dry Creek and the Russian River.

Diversions for Consumptive Uses

(a) Direct diversion portion of the permit

The applicant's plan to divert water from the Russian River by means of facilities it will operate is contingent upon Marin Municipal Water District and other

agencies contracting to purchase water. A bond issue by Marin Municipal Water District was defeated at an election. Although the applicant and prospective water use contractors are actively exploring possible arrangements whereby the applicant will divert water from the Russian River to supply the contracting agencies, no firm plans have been formulated. Therefore, action should be withheld on the direct diversion portion of the application until a showing has been made of need for the water.

(b) The storage portion of the permit

The applicant intends to release stored water down the natural channel to be rediverted to beneficial use by individual users along the river.

The former State Water Rights Board was confronted with a similar problem to that raised by this decision insofar as individual water users were concerned, when it considered the issuing of permits on the applicant's Coyote Valley Project. In its Decision 1030 adopted August 17, 1961 that Board allowed diversion of project water at the proposed Wohler, Mirabel, Monte Rio and Healdsburg Intakes and, in addition, authorized the diversion of up to 120 cubic feet per second at points along the river downstream from Coyote Dam, but provided that no water was to be diverted "until a description of the location of each point of diversion and statement of the quantity of water to be diverted at each point

is filed with the State Water Rights Board. . ." (Term 3, pages 44 and 45 of Decision 1030). Although the applicant has subsequently advised the Board that it does not intend to sign contracts for project water with users along the river but instead will recover its costs through a general county-wide tax, this does not relieve the applicant of the necessity to account for the water being used under the Coyote Valley Project permits. The same requirement must likewise attach to any permit issued for the Dry Creek Project.

While the order should allow diversion of water to storage inasmuch as the requisites for issuance of a permit have been satisfied, no use of the stored water other than for in-channel purposes should be allowed until the applicant has presented a more definite plan of operation and procedures for accounting for the use by those individuals rediverting released flows downstream.

Delay in Issuing Decision

Hearing on the subject applications was held on February 25, 1970 with a limited period allowed thereafter for the submission of briefs. However, before the decision could be finalized, the Board was advised of the failure of the Marin Municipal Water District to approve the bond election

necessary for Marin County to participate in the project. Accordingly, action was withheld to afford the applicant an opportunity to reassess its water needs and its plans for development. This issue is yet to be satisfactorily resolved. However, for the reasons mentioned in the preceding section the Board should issue its decision on those items which can be determined at this time with the remaining items to be the subject of further hearing.

From the foregoing findings, the Board concludes that Application 19351 should be approved in part and that a permit should be issued to the applicant subject to the limitations and conditions set forth in the order following.

ORDER

IT IS HEREBY ORDERED that Application 19351 be approved in part, and that a permit be issued to the applicant 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 245,000 acre-feet per annum by storage to be collected from Dry Creek in Warm Springs Reservoir between October 1 and May 1 of the succeeding year. No water shall be used except for in-channel purposes until further hearing and order of the Board. Said order shall be preceded by a showing by the permittee of how the water put to beneficial use will be measured and reported.

2. The amount authorized for appropriation may be reduced in the license if investigation warrants.

3. Construction work shall be completed on or before December 1, 1978.

4. Complete application of the water to the proposed use shall be made on or before December 1, 1990.

5. Progress reports shall be submitted promptly by permittee on forms to be provided by the State Water Resources Control Board until license is issued.

6. All rights and privileges under this permit and under any license issued pursuant thereto, 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.

This continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to minimizing waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement such programs as (1) reusing or reclaiming the water allocated; (2) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (3) suppressing evaporation losses from water surfaces; (4) controlling

phreatophytic growth; and (5) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

7. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

8. This permit is subject to the agreement between Sonoma County Water Agency and the California Department of Fish and Game dated February 24, 1970, on Applications 12918 and 19351,

to the extent that provisions of said agreement relate to matters within the jurisdiction of the State Water Resources Control Board and which provides for the following minimum flows from Warm Springs Dam downstream to the mouth of Dry Creek:

A. From April 1 through November 30 of each year, 25 cubic feet per second.

B. From December 1 through March 31 of the succeeding year:

a. Seventy-five cubic feet per second when the maximum reservoir elevation (in feet, m.s.l.) the previous spring was 441.0 or above.

b. Seventy cubic feet per second when the maximum reservoir elevation the previous spring was from 431.0 to 440.9.

c. Sixty cubic feet per second when the maximum reservoir elevation the previous spring was from 421.0 to 430.9.

d. Fifty cubic feet per second when the maximum reservoir elevation the previous spring was below 421.0.

9. The provisions of the preceding term are based on a bilateral agreement between permittee and the Department of Fish and Game, and shall not be construed as a finding by the State Water Resources Control Board that the amount of water named therein is either adequate or required for the maintenance of fish life.

10. Permittee shall maintain records of conservation water stored in Warm Springs Reservoir under this permit and of withdrawals made therefrom for beneficial purposes and of reservoir evaporation, furnishing such records to the Board. Permittee shall also install a measuring device at or near the mouth of Dry Creek and maintain daily records of flow to determine compliance with fish release requirements.

11. Export of water under this permit for use outside the Russian River watershed is subject to all present and future appropriations for use within the watershed.

12. In compliance with Fish and Game Code Section 5943, permittee shall accord to the public, for the purpose of fishing, reasonable right of access to the waters impounded by Warm Springs Dam during the open season for the taking of fish, subject to the regulations of the Fish and Game Commission.

IT IS FURTHER ORDERED that action on that portion of Application 19351 for a permit to appropriate 290 cubic feet per second by direct diversion from Dry Creek and Russian River in Sonoma County be withheld pending further hearing and order. Said order shall be preceded by a showing of a need for additional water over that authorized herein.

IT IS FURTHER ORDERED that Application 12918 is hereby rejected and canceled.

We Concur:

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

W. W. ADAMS
W. W. Adams, Chairman

RONALD B. ROBIE
Ronald B. Robie, Vice Chairman

ABSENT
Roy E. Dodson, Member

MRS. CARL H. (JEAN) AUER
Mrs. Carl H. (Jean) Auer, Member

Dated: March 15, 1973