

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 20414)
of Mount Hermon Association to)
Appropriate from Ferndell Spring)
in Santa Cruz County)

Decision D 1189

ADOPTED AUG 18 1964

DECISION APPROVING APPLICATION IN PART

Mount Hermon Association having filed Application 20414 for a permit to appropriate unappropriated water; a protest having been received; the applicant and protestant 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 Rights Board pursuant to said stipulation; the Board, having considered all available information and now being fully advised in the premises, finds as follows:

1. Application 20414 is for a permit to appropriate 1 cubic foot per second (cfs) by direct diversion, year-round, for domestic and recreational purposes from Ferndell Spring in Santa Cruz County. The point of diversion is to be located within the NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 23, T10S, R2W, MDB&M.

2. Ferndell Spring flows approximately 1/4 mile from its point of origin to join an unnamed stream tributary to Zayante Creek. Zayante Creek flows from this junction approximately 0.5 mile to join the San Lorenzo River. On February 19, 1964, the flow of the spring was 0.15 cfs.

3. The applicant has installed a pump with a capacity of approximately 100 gallons per minute at a sump near the spring and pumps the water through a pipeline to two regulatory storage tanks, which are the principal supply for a camp and conference center used by religious organizations. Residences are also supplied by the system and additional residences are contemplated. Applicant does not plan to enlarge its present diversion works.

4. The protestant City of Santa Cruz holds License 1553, Application 4017, for 6.2 cfs and has agreed to accept a license (tentatively assigned No. 7200) to be issued on Permit 2738 for 6.0 cfs from the San Lorenzo River. It also holds Permit 11618 covering its Newell Creek Project on a tributary of the San Lorenzo River, the main features of which are a dam and a reservoir of 8,500 acre-feet capacity.

5. A United States Geological Survey gaging station at Big Trees, located approximately 1.5 miles downstream from the junction of San Lorenzo River and Zayante Creek, measures substantially the entire flow of the river available to the City of Santa Cruz. The records of this station for the 26-year period it has been in operation show that the supply available to the protestant was sufficient to satisfy its rights at all times except during the months of July and October in two years and during the months of August and September in four years.

6. Unappropriated water is available to supply the applicant 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.

7. The intended use is beneficial.

8. The amount of water to be appropriated under the permit should be limited to 0.25 cfs because of the capacity of the applicant's diversion works and the amount of water physically available at its point of diversion.

9. Applicant has been diverting water under claimed riparian and pre-1914 appropriative rights. The permit to be issued should provide that upon a judicial determination that the place of use under the permit or a portion thereof is entitled to the use of water by riparian and/or pre-1914 appropriative rights, the rights 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 largest of the rights.

From the foregoing findings, the Board concludes that Application 20414 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 following Order.

The records, documents, and other data relied upon in determining the matter are: Application 20414 and all relevant information on file therewith, particularly the report of the field investigation made February 19, 1964, License 1553 (Application 4017), Permit 2738 (Application 5215), Permit 11618 (Application 17913) and United States Geological Survey Water Supply Papers, Part 11, "Pacific Slope Basins in California" for the years 1937 through 1962.

ORDER

IT IS HEREBY ORDERED that Application 20414 be, and it is, 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 amount of water appropriated shall be limited to the amount which can be beneficially used and shall not exceed 0.25 cubic foot per second by direct diversion to be diverted year-round.

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

3. Complete application of the water to the proposed use shall be made on or before December 1, 1966.

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

5. 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 Rights 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.

6. Permittee shall allow representatives of the State Water Rights 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.

7. 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 and/or pre-1914 appropriative right, the rights 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 largest of the rights.

Adopted as the decision and order of the State Water Rights Board at a meeting duly called and held at Sacramento, California, on the day of , 1964.

/s/ Kent Silverthorne
Kent Silverthorne, Chairman

/s/ Ralph J. McGill
Ralph J. McGill, Member

/s/ W. A. Alexander
W. A. Alexander, Member