

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 22782)
of Cuesta La Honda Guild to Appro-)
priate from Woodhams Creek, Mindego) Decision 1324
Creek, Pat Springs and Unnamed Basin)
in San Mateo County)

DECISION APPROVING APPLICATION IN PART

Cuesta La Honda Guild having filed Application 22782 for a permit to appropriate unappropriated water; protests having been received; a public hearing having been held before the State Water Resources Control Board on June 18, 1968; applicant and protestants having appeared and presented evidence; the evidence received at the hearing having been duly considered, the Board finds as follows:

1. Application 22782 is for a permit to appropriate a total of 0.069 cubic foot per second by direct diversion, year-round, from Woodhams Creek, Mindego Creek and Pat Springs and a total of 15.35 acre-feet per annum by storage at Granny Flat Reservoir, year-round, from Woodhams Creek, Mindego Creek and an unnamed basin for domestic purposes in San Mateo County. The points of diversion are to be located within the

NW $\frac{1}{4}$ of SW $\frac{1}{4}$, SE $\frac{1}{4}$ of NW $\frac{1}{4}$, SE $\frac{1}{4}$ of SE $\frac{1}{4}$, and SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 13 and the NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 14, all in T7S, R4W, MDB&M.

2. Cuesta La Honda Guild is a nonprofit corporation having members who are property owners within the Cuesta La Honda subdivision which contains approximately 270 homes. The project covered by Application 22782 is the existing water system initiated in the year 1927 that serves water to the subdivision from upper tributaries of San Gregorio Creek. The applicant contemplates no greater use of water under any permit issued pursuant to Application 22782 than has been used in the past (RT 18).

3. Sixteen protestants located on San Gregorio Creek between the mouth of La Honda Creek and the Pacific Ocean claim rights to water from the creek under riparian and pre-1914 appropriative rights. They claim there is not sufficient water during the summer months to satisfy their own needs but have no opposition to diversions by the applicant during the winter months.

4. The applicant presented no evidence that would tend to establish that unappropriated water exists in the sources covered by Application 22782 (RT 87). Spokesmen for the applicant have stated that Application 22782 was filed to establish rights which they already have to water from

the sources covered by the application (RT 6, RT 7, and answers to protests contained in files of Application 22782).

The Board has no jurisdiction to validate riparian rights, pre-1914 appropriative rights, or rights obtained through grant or prescription by issuing a permit covering past use under any such claimed rights. The principal issue before the Board in acting on Application 22782 is whether unappropriated water exists in the named sources in view of the available flows and the uses under rights held by the protestants.

5. There are no records of the historical flows of the sources covered by Application 22782 or San Gregorio Creek. However, spot measurements of the flows of San Gregorio Creek were made by members of the Board's staff in connection with Application 20266. These measurements, covering a period from May 25 to August 3, 1962, ranged from 500 gallons per minute on May 25 at a point approximately 1.5 miles below the confluence of La Honda and Alpine Creeks to no flow on August 3 at a point approximately 6 miles below the same confluence. The year 1962 was a year of average rainfall in the project area (RT 118).

6. Decision D 1137 of the Board, adopted May 22, 1963, found no unappropriated water available in San Gregorio Creek during the months of June, July, August and September.

In reaching that conclusion the Board found that the users of water from San Gregorio Creek, which included most of the protestants to Application 22782, had experienced critical shortages of water during July, August and September of the previous four years and that land had lain idle and had been dry farmed due to lack of water. No showing has been made to justify a contrary conclusion at the present time. According to testimony at the hearing held in this proceeding, June is also a month during which some of the protestants are not getting sufficient water in most years to satisfy their rights (RT 110, 114). There is surplus water in the San Gregorio Creek system in most years during the remainder of the year.

7. Unappropriated water is available to supply the applicant from about October 1 of each year to about June 1 of the succeeding year, 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.

8. The intended use is beneficial.

9. The applicant claims that water is used on its place of use from sources covered by Application 22782 under riparian right. The permit should contain a term stating that use under any such right and the right acquired under

the permit for direct diversion 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.

From the foregoing findings, the Board concludes that Application 22782 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 22782 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 water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed a total of 0.069 cubic foot per second by direct diversion from Woodhams Creek, Mindego Creek and Pat Springs to be diverted from about October 1 of each year to about June 1 of the succeeding year and 15.35 acre-feet per annum by storage from Woodhams Creek, Mindego Creek and an unnamed basin to be collected during the same period.

This permit does not authorize collection of water to storage outside the specified season to offset evaporation and seepage losses or for any other purpose.

2. The maximum quantity 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, 1972.

4. 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.

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 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.

6. 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.

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 right, the right so determined and the right acquired under this permit by direct diversion

of water shall not result in a combined right to the use of water by direct diversion 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: **JAN 9 1969**

GEORGE B. MAUL
George B. Maul, Chairman

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

RALPH J. MCGILL
Ralph J. McGill, Member

NORMAN B. HUME
Norman B. Hume, Member

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