

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Request for
Modification of Term of
License 9847, Issued on
Application 17913

CITY OF SANTA CRUZ

Decision 1466

DECISION DENYING REQUEST TO TEMPORARILY MODIFY LICENSE TERMS
BY BOARD MEMBER ADAMS:

On April 19, 1977, the State Water Resources Control Board held a public hearing in the above-entitled matter pursuant to Section 736.1 of Title 23, California Administrative Code. This hearing was held to determine whether the Board should exercise its continuing authority under License 9847 to modify a license condition requiring release of water from storage for preservation and maintenance of fishing and recreational waters. The City of Santa Cruz, Department of Fish and Game and other interested parties having appeared and presented evidence; the evidence received at the hearing having been duly considered, the Board finds as follows:

Prior Proceeding

1. State Water Resources Control Board Decision 1464, issued on March 17, 1977, ordered temporary modification of permit terms governing appropriation of water from another component of the City's system, viz., its Felton Diversion on San Lorenzo River. The record leading to Decision 1464 was made

a part of the record of the instant proceeding. Accordingly, the findings herein are based in part upon the evidence of record in Decision 1464, as updated by the hearing of April 19, 1977.

2. Licensee's water system provides service to about 58,000 customers within and without the city limits. Licensee's major sources of water are the San Lorenzo River, coastal streams and wells.

3. Licensee holds License 9847 which authorizes collection of water from Newell Creek (tributary to San Lorenzo River) to storage in Loch Lomond Reservoir. Collection of 5,600 acre-feet per annum (afa) from September 1 to July 1 is authorized. Maximum withdrawal in any one year is limited to 3,200 acre-feet (af). Licensee may hold 8,624 af in storage in Loch Lomond Reservoir.

4. Evidence established the existence of a bonafide drought. Because of the existing drought conditions the evidence now established that the City would have a deficiency of 2,919 acre-feet (af) in estimated total annual safe yield at the end of this year, assuming normal usage.

Water Conservation Measures

5. On March 1, 1977, the City of Santa Cruz adopted a water conservation ordinance (Ordinance No. 77-6) which declares the presence of a drought emergency, reduces water use, and prescribes penalties for violations. The water usage provisions are substantially as follows:

Residential usage:

<u>Persons per house</u>	<u>Bimonthly Amount</u>	<u>Equivalent Gallons per day</u>	<u>Equivalent Gallons per day per person</u>
1	900 cf	112	112
2	1500 cf	187	94
3	2000 cf	250	83
4	2400 cf	300	75
Each addi- tional person	400 cf	50	

All other uses, including commercial, industrial, and irrigation, are limited to 70 percent of use in 1975

6. Evidence at the April 19, 1977, hearing established that the water conservation measures actually achieved a 36 percent reduction in water use during March, the first month of mandatory rationing.

7. The water conservation measures noted above would, by licensee's current estimate, reduce water consumption by about 3,625 af by the end of this year. This saving in consumption would permit the City to live within its water budget this year, and would effect some net saving to the system for use after 1977. Based on the present record, this net saving cannot be quantified.

8. The San Lorenzo Valley County Water District (the District) has, by agreement, a right to draw upon water collected to storage in the Loch Lomond Reservoir for service within its area. The evidence does not establish the priority of right under the agreement, as between licensee and the District, when water in storage in Loch Lomond Reservoir is insufficient to meet the demands of both licensee and the District. Evidence did

establish that, despite a new service connection ban and despite some water conservation measures taken by the District, water use within the District has been accelerating during the last few years and the measures have been totally ineffective to reduce consumption.

Availability of Alternative Supplies

9. Evidence established that the most likely source of an alternative water supply is increased use of ground water. However, neither this source nor increased diversion from the San Lorenzo River at Crossing Street is available at this time. It is further found that permittee in the past has not diligently pursued development of alternative supplies

Permittee's Request

10. By letter received March 9, 1977, licensee requested a reduction in the fish reservation and maintenance requirement contained in an agreement between the Department of Fish and Game and licensee, dated July 28, 1958, and by reference made a part of License 9847, whereby licensee is required to release one cubic-foot per second(cfs) from Loch Lomond Reservoir to Newell Creek to preserve and maintain the fishery. Licensee requested that the flow release requirement be reduced by one-third cfs, or 125 gallons per minute.

11. Since the effect of the water conservation measures taken by licensee will be to achieve a net saving of about 700 af this year for use next year, it is found that licensee's supply will not be exhausted this year. Therefore, the reason for the request to modify the release requirement, as was the case in

Decision 1464, is to further increase availability of water to the system should the drought continue into 1978. Licensee estimates it can increase storage in Loch Lomond by about 120 af by December 31, 1977, if its request to reduce release flows is granted.

12. This additional water would benefit not only the City of Santa Cruz, but also the San Lorenzo County Water District, which has rights to storage in Loch Lomond Reservoir.

Impact on the Fishery

13. Evidence presented by the Department of Fish and Game establishes that the San Lorenzo River system is an important salmon and steelhead habitat. A normal population in the river system is 20,000 to 30,000 steelhead trout and 1,000 to 1,200 silver salmon. This normal population has been considerably reduced because of the current drought.

14. Newell Creek is one of the most important San Lorenzo River tributary streams for salmon and steelhead spawning. Because of the Creek's perennial flow, it supports a year-round trout fishery. The creek also supports riparian vegetation and associated animals. The riparian canopy of trees is valuable wildlife habitat and shades the stream, helping to keep water temperatures within the range required for salmonoid fish. The Newell Creek Trout Base, located about 0.25 mile downstream from Loch Lomond Reservoir rears rainbow trout as part of the Department of Fish and Game's catchable trout program. Trout from this facility are used to stock lakes and streams in eight nearby counties.

14. The Department testified that the proposed reduction in stream flow will cause a loss of riparian vegetation which would adversely affect wildlife habitat and stream temperatures. From the evidence available, the extent of this loss and the impact upon the habitat cannot be precisely determined. Since a reduction of surface flow may not significantly effect ground water or stream underflow levels, trees with extensive root systems may survive on these waters rather than on surface flow. Shallow rooted annual and perennial plants and small trees may be affected since they would tend to be more dependent on surface flow.

15. The Department testified that the proposed flow reduction would probably reduce the trout fishery and could possibly reduce salmon and steelhead spawning areas. If actual dewatering of stream reaches occurred, these adverse fishery impacts would be exacerbated. The Department was not able to estimate the fish loss or to predict whether stream reaches would be dewatered.

16. According to the Department of Fish and Game, the Newell Creek Trout Base requires a flow of 375 gallons per minute for maximum operational capacity. The licensee has requested that the fish release be temporarily reduced to about 323 gpm. Therefore the trout base would be required to operate under a 52 gpm reduction (14 percent of maximum). The Department's representatives could not estimate the magnitude of this adverse impact on catchable trout programs served by the base.

17. Although evidence does not support quantification of the adverse effect upon the beneficial uses which the flow release requirement was designed to protect, evidence does support our finding that the proposed reduction in this flow would create a substantial risk of substantial further damage to the total fishery resource of the San Lorenzo River system. We weigh this risk against the following factors: urgency of the need at this time, to preserve an additional 120 af in Loch Lomond Reservoir for water supply purposes; additional water conservation measures which may be taken by the parties having the right to utilize the Loch Lomond Reservoir supply (licensee and the District); availability of alternative reserve ground water supplies in the event of continued drought; and the absence of any showing in the record that users of water from the San Lorenzo River System, other than licensee and the District, are practicing water conservation measures to reduce the demand on the system in the interest of all beneficial uses. Soweighed, licensee's request is found wanting.

DETERMINATION OF ISSUE

1. Cause does not now exist to modify the relevant license terms regarding releases for fishery preservation and maintenance, in exercise of the Board's continuing authority, 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 water.

2. Licensee should again be permitted to show cause, upon request and at further hearing, for modification of the relevant license term at such time as licensee can present evidence of (1) a more urgent need, (2) more intensive water conservation measures taken by the parties having the right to utilize the Loch Lomond Reservoir supply, (3) maximum utilization of alternative supplies, including especially the groundwater alternative, and (4) water conservation measures undertaken by other users of water of the San Lorenzo River system.

ORDER

Licensee's request for modification of License 9847 is denied.

Dated: April 21, 1977

W. W. Adams
W. W. Adams, Member

John E. Bryson
John E. Bryson, Chairman

W. Don Maughan
W. Don Maughan, Vice Chairman

Roy E. Dodson
Roy E. Dodson, Member

Jean Auer
Jean Auer, Member