

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 23576)
of J. W. and Viva W. Humphrey to) Decision 1484
Appropriate from Soquel Creek in)
Santa Cruz County)

DECISION APPROVING APPLICATION IN PART

J. W. and Viva W. Humphrey having filed Application 23576 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 May 8, 1974; applicants and protestant, City of Capitola, having appeared and presented evidence; the evidence received at the hearing having been duly considered, the Board finds as follows:

Substance of Application

1. Application 23576 is for a permit to appropriate 10,000 gallons per day by direct diversion from April 1 to November 1 of each year and two acre-feet per annum by storage to be collected from November 1 of each year to May 1 of the succeeding year for irrigation, recreation and fish and wildlife propagation purposes from Soquel Creek in Santa Cruz County. The point of diversion is to be located in the SW $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 26, T10S, R1W, MDB&M.

Applicants' Project

2. The applicants divert water from Soquel Creek mainly for irrigation of an old orchard. They have commenced construction of a small offstream reservoir which will be used principally for fish and wildlife propagation.

Protests

3. A protest by Soquel Elementary School District was withdrawn prior to the hearing.

The application was protested by the City of Capitola on the basis that the diversion would reduce the flow in the creek and especially at Capitola Lagoon below that necessary to maintain a safe and healthful condition. The protest states that it will be withdrawn if the applicants agree not to divert from May through October or not divert water when less than three cubic feet per second are reaching the lagoon.

The Hearing

4. Applicants agreed at the hearing that their direct diversion is covered by their riparian claim (RT 66). Protestant does not object to diversion to storage between November 1 and May 1 (RT 67). Since the reservoir will not be used for irrigation, that use should be omitted from the permit.

Unappropriated Water

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.

Environmental Considerations

7. All environmental reviews required in compliance with the California Environmental Quality Act of 1970 have been completed.

From the foregoing findings, the Board concludes that Application 23576 should be approved in part and that a permit should be issued to the applicants subject to the limitations and conditions set forth in the order following.

ORDER

IT IS HEREBY ORDERED that Application 23576 be approved in part 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 two acre-feet per annum by storage to be collected from November 1 of each year to May 1 of the succeeding year.

The maximum rate of diversion to offstream storage shall not exceed 0.06 cubic foot per second.

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

3. After the initial filling of the storage reservoir, permittee's right under this permit extends only to water necessary to keep the reservoir full by replacing water lost by evaporation and seepage, and to refill if emptied for necessary maintenance or repair. Such right shall be exercised only during the authorized diversion season.

4. Complete application of the water to the proposed use shall be made on or before December 1, 1982.

5. Progress reports shall be submitted promptly by permittee when requested 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. 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.

Dated: July 20, 1978

/s/ JOHN E. BRYSON
John E. Bryson, Chairman

/s/ W. DON MAUGHAN
W. Don Maughan, Vice Chairman

/s/ W. W. ADAMS
W. W. Adams, Member

/s/ B. J. MILLER
B. J. Miller, Member