

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 23965)
to Appropriate from Woodruff Creek,)

WILLIAM H. DEMPSEY, ET AL.)

Applicant,)

GERDA ISENBERG, ET AL.)

Protestants)

Decision: D1554

Source: Woodruff Creek

County: San Mateo County

DECISION APPROVING PETITION FOR ADDITION OF A POINT OF REDIVERSION
AND APPROVING APPLICATION IN PART

BY THE BOARD:

William H. Dempsey, and his heirs and assigns, including James G. Dempsey and Geraldine Dempsey, having filed Application 23965 for a permit to appropriate unappropriated water; protests having been received, the applicants and protestants having stipulated to proceedings in lieu of hearing as provided for by Section 737, Title 23, California Administrative Code, an investigation having been made by the State Water Resources Control Board pursuant to said stipulations; a petition to add a point of rediversion having been filed; the Board, having considered all available information, finds as follows:

Substance of the Application

1. Applicant requested an appropriation of 12 acre-feet per annum by on-stream storage in three reservoirs to be located within an 800-foot reach of Woodruff Creek on the western slope of the coast range in San Mateo County. Woodruff Creek is tributary to La Honda Creek, thence San Gregorio Creek, thence Pacific Ocean. Applicant proposes to collect water to storage from November 1 to June 1 of each year, for industrial, domestic, stockwatering, recreational, and fire protection purposes.

2. The applicant subsequently amended the application to eliminate the proposed upstream reservoir and transfer its one acre-foot storage to the existing middle reservoir ("Quarry Pond"). The amended application thus requested storage of seven acre-feet in "Quarry Pond" and five acre-feet in the proposed downstream reservoir.

Petition to Change

3. The project was further modified by petition to add a point of rediversion at a proposed off-stream storage reservoir. Water will be diverted to off-stream storage from the "Quarry Pond". The proposed reservoir will be located about 800 feet southwest of the "Quarry Pond".

Applicant's Project

4. Applicant operates an aggregate quarry under long term lease of land adjacent to Woodruff Creek. The requested appropriation is for domestic and recreational use by quarry employees, fire protection in the area, minor industrial use incidental to quarry operations such as dust control and truck washing, and for unrelated stockwatering purposes.

5. The applicant claims a separate riparian right to the use of water from Woodruff Creek for industrial purpose.

6. Because of environmental concerns as discussed later, the applicant no longer plans to store water at the proposed lower reservoir on Woodruff Creek. The project therefore consists of diversion of 12 acre-feet per annum from Woodruff Creek at the existing dam, with storage in the "Quarry Pond" or at the proposed 6 acre-foot levee type off-stream reservoir. Because of silting, the capacity of the "Quarry Pond" is something less than 6 acre-feet.

Protests

7. Protests against Application 23965 were filed as follows:

Norris and Alice Robison
Mrs. Ross E. Tichenor
Gerda Isenberg

Richard Blum
Modena Brothers
Leland Stanford Junior University
Norma Francis
Phillip C. Crane
Peter Folger

8. Protestants Robison, Tichenor, Modena Brothers, Leland Stanford Junior University, Francis, and Crane are diverters from San Gregorio Creek many miles downstream of the applicant's project. Although they collectively claim injury to vested rights, they use water for irrigation during the summer and will not be adversely affected by the approval of Application 23965 during the winter and spring months when San Gregorio Creek flows are ample for all uses.

9. Protestants Isenberg, Blum, and Folger are local property owners. They claim that approval of Application 23965 will have adverse environmental impact, will interfere with vested water rights and with other property and access rights, and will allow or continue to allow diversion of water behind unsafe dams. These issues will be discussed later. Protestant Isenberg, who is the owner of the aggregate quarry, specifically alleges that approval of stockwatering use will violate applicant's lease. Applicant has no plans to run livestock on the property. Therefore, use for stockwatering should not be allowed.

Availability of Unappropriated Water

10. Woodruff Creek heads near the summit of the coast range at an elevation of about 2,000 feet. The creek flows in a southwesterly direction for about one-half mile to the area of the applicant's project. The area of watershed tributary to the requested points of diversion is about 250 acres. Woodruff Creek continues in a westerly and southwesterly direction about two miles to join La Honda Creek, which flows about two miles south to San Gregorio Creek. San Gregorio Creek flows westerly about ten miles to the Pacific Ocean. The gradient of Woodruff Creek is relatively steep averaging about 10%.

11. Except during storms, Woodruff Creek is fed by springs. Although there are some springs upstream of the applicant's project, most of the flow is produced by springs in the steeper portion of the canyon below the project. Field observation in April 1973 indicated a difference in flow of about one cubic foot per second between the applicant's point of diversion and the confluence with La Honda Creek.

12. Since 1969 a U. S. Geological Survey gaging station has been maintained on San Gregorio Creek a short distance upstream of the ocean. Streamflow records for this station show that unappropriated water in excess of requirements of protestants and others is available in most years from November through May, the requested diversion season.

Use of Water

13. Based on recent and projected increased demand for quarry products in the local area, the applicant has demonstrated a need for the total requested amount of water.

14. The intended uses to be approved are beneficial.

Environmental Considerations

15. Protestants Folger, Isenberg, and Blum allege that the applicant's existing dam is unsafe and that the proposed dams would intensify the hazard. The proposed dams in Woodruff Creek have been deleted by the applicant. The existing dam, constructed about 1960, appears to consist of an earth and rock fill approximately 50 feet high and 100 feet long impounding somewhat less than six acre-feet of water over an area of about one-half acre. The height of the original dam has been increased several feet by loosely compacted local materials. There are no inhabited or other structures downstream that would be damaged by failure of the dam. However, increased flow, erosion, and siltation could occur if the dam failed. As mitigation,

the applicant proposes to construct a low, heavy rock barrier across the creek about 800 feet downstream of the existing facility to collect silt resulting from any failure of the dam.

16. The Board has prepared a Negative Declaration in accordance with the California Environmental Quality Act (Public Resources Code, Section 2100 et seq.) and the State Guidelines, and the Board determines that there will be no significant effect on the environment as a result of the project as modified.

Other Considerations

17. Other matters of property and access rights not discussed above, are not within the jurisdiction of the Board.

18. Storage of water at the petitioned point of diversion will not operate to the injury of any legal user of the water involved.

Records Utilized

19. The records, documents, and other data relied upon in determining this matter, which are maintained by the State Water Resources Control Board in the offices of the Division of Water Rights, include the following:

- a. The official file on Application 23965;
- b. The official record of Decision 1137 and all relevant information on file therewith; and
- c. The records of discharge of the United States Geological Survey gaging station "San Gregorio Creek at San Gregorio, California".

Conclusions

20. From the foregoing findings, the Board concludes that the petition to add a point of diversion should be approved, that Application 23965 should be approved except that stockwatering use should be denied, and that a permit should be issued to the applicant subject to the conditions set forth in the order following.

ORDER

IT IS HEREBY ORDERED that the petition to add a point of redirection be approved, that Application 23965 be approved in part, and that a permit be issued to the applicants subject to vested rights. The permit shall contain all applicable standard permit terms (5i, 6, 7, 10, 11, 12 and 13*) and addition to the following conditions:

1. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 12 acre-feet per annum to be collected from November 1 of each year to June 1 of the succeeding year.

2. Said construction work shall be completed on or before December 1, 1983.

3. Complete application of the water to the proposed use shall be made on or before December 1, 1984.

4. No water shall be stored under this permit until a suitable downstream barrier is constructed that is capable of intercepting silt which may be caused by failure of the existing dam. Said construction shall be under the supervision of a qualified civil engineer registered in the State of California.

5. In order to prevent degradation of the quality of water during and after construction of the project, prior to commencement of construction permittee shall file a report pursuant to Water Code Section 13260 and shall comply with any waste discharge requirements imposed by the California Regional Water Quality Control Board, San Francisco Bay Region, or by the State Water Resources Control Board.

6. No water shall be used under this permit until the permittee has filed a report of waste discharge with the California Regional Water Quality Control Board, San Francisco Bay Region, pursuant to Water Code Section 13260, and the Regional Board or State Water Resources Control Board has prescribed waste discharge requirements or has indicated that waste

*This Board maintains a list of standard permit terms
Copies are available upon request.

discharge requirements are not required. Thereafter, water may be diverted only during such times as all requirements prescribed by the Regional Board or State Board are being met. No discharge of waste to surface water shall be made unless waste discharge requirements are issued by a Regional Board or the State Board. A discharge to groundwater without issuance of a waste discharge requirement may be allowed if after filing the report pursuant to Section 13260:

- (a) The Regional Board issued a waiver pursuant to Section 13260, or
- (b) The Regional Board fails to act within 120 days of the filing of the report.

No report of waste discharge pursuant to Section 13260 of the Water Code shall be required for percolation to the groundwater of water resulting from the irrigation of crops.

Dated: March 20, 1980

ABSENT

Carla M. Bard, Chairwoman

ABSENT

William J. Miller, Vice-Chairman

/S/ L. L. Mitchell

L.L. Mitchell, Member

/S/ Jill B. Dunlap

Jill B. Dunlap, Member

/S/ F. K. Aljibury

F. K. Aljibury, Member

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