

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of)
Applications 24239, 24245 and 24246)
CITY OF MORRO BAY,)
Applicant)
MR. AND MRS. JOHN W. JONES, ET AL.,)
Protestants)

Decision: 1589
Source: Chorro and Morro
Creek Underflows
County: San Luis Obispo

DECISION FINDING THAT SOURCES OF WATER ARE
KNOWN AND DEFINITE SUBTERRANEAN CHANNELS

BY THE BOARD:

The City of Morro Bay having filed Applications 24239, 24245 and 24246 for permits to appropriate unappropriated water; protests having been received; a public hearing having been held before the State Water Resources Control Board on January 12 and 13, 1977; applicant and protestants having appeared and presented evidence; the evidence at said hearing having been duly considered; the Board finds as follows with respect to the sources of the requested appropriations.

Substance of the Applications

1. Application 24239 is for a permit to appropriate 0.851 cubic foot per second (cfs) by year-round direct diversion from the underflow of Chorro Creek. The total amount of water to be diverted under this application is 390 acre-feet per year.

2. Application 24245 is for a permit to appropriate 2.02 cfs by year-round direct diversion from the underflow of Chorro Creek. The total amount of water to be diverted under this application is 925 acre-feet per year.

3. Application 24246 is for a permit to appropriate 1.07 cfs by year-round direct diversion from the underflow of Morro Creek. The total amount of water to be diverted under this application is 490 acre-feet per year.

4. Water under all three applications will be used for municipal purposes within the city limits of Morro Bay.

5. The points of diversion for Applications 24239 and 24245 are five existing wells within Section 32, T29S, R11E, MDB&M and two existing wells within Section 3, T30S, R11E, MDB&M. The points of diversion for Application 24246 are five existing wells within Section 25, T29S, R10E, MDB&M.

Applicant's Project

6. The City of Morro Bay obtains most of its municipal water supply from the wells which are the subject of the applications being considered herein. At the hearing in this matter, the applicant indicated that three additional wells had been constructed in the vicinity of the other wells on Morro Creek. On September 15, 1977, a petition was received to add these wells as points of diversion under Application 24246.

7. During the hearing, the applicant reduced the total amount of water applied for under the subject applications to the quantity used during 1972, the historical maximum. In 1972, the applicant extracted approximately 975 acre-feet from Chorro Creek and 575 acre-feet from Morro Creek (Morro Bay Exhibit 3). Application 24246 requests a maximum annual quantity of 490 acre-feet from Morro Creek. The quantity cannot be increased under that filing to cover the 1972 use.

8. The City of Morro Bay has recently filed Applications 27386 and 27477 on Chorro and Morro Creeks, respectively, for the difference between the total annual quantity of water requested under the three applications being considered herein and the current historical maximums.

Protests

9. Applications 24239 and 24245 were protested by the Department of Fish and Game, Vivian Roemer, Mr. and Mrs. John W. Jones, and Louis Domenghini, Trustee for Domenghini Trust. Application 24246 was protested by the Department of Fish and Game, Ron Kennedy, Nagano Company, Inc., and David H. Wixom. The Department of Fish and Game subsequently withdrew its protests. The remaining protests allege that 1) the groundwater basins are in an overdraft condition, and 2) the source is percolating groundwater not subject to the Board's jurisdiction.

10. No substantive testimony was offered at the hearing by the protestants on the issue of the source of water being requested. Injury to prior rights and availability of unappropriated water are not a subject of this order. Those issues will be considered in a future Board decision.

11. The Board cannot decide the entire matter until the City of Morro Bay has adopted an environmental document in compliance with CEQA. However, the Board can decide at this time whether the source is water flowing in a known and definite channel and thus subject to its jurisdiction. In fact, a decision on this point is critical to the City proceeding with CEQA compliance.

Source of Requested Water

12. Water Code Section 1200 states:

"Whenever the terms stream, lake or other body of water, or waters occurs in relation to applications to appropriate water or permits or licenses issued pursuant to such applications, such term refers only to surface water, and to subterranean streams flowing through known and definite channels."

13. The applicant claims that the water extracted from its Chorro and Morro Creek wells, which vary in depth from 50 to 80 feet, is subterranean water flowing through known and definite channels. Extensive testimony by the applicant's expert witness concurred with the Board staff's preliminary geologic study and conclusion that subsurface flow within the alluvium along Chorro and Morro Creeks occurs within well defined beds and banks of rock.


Environmental Documents

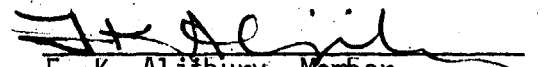
14. In accordance with the California Environmental Quality Act (Public Resources Code Section 21000, et seq.), the applicant is lead agency for the preparation of necessary environmental documentation. Such preparation has been held in abeyance pending determination concerning the classification of the sources of the requested water. Based on our finding herein, the applicant should commence preparation of a suitable environmental document covering Applications 27386 and 27477 as well as Applications 24239, 24245, and 24246.


CONCLUSION


From the foregoing findings, the Board concludes that the water sought under Applications 24239, 24245, and 24246 is flowing through known and definite subterranean channels, therefore, the Board has jurisdiction over the appropriation of such water.

Dated: December 16, 1982


Carole A. Onorato, Chairwoman


F. K. Aljibury, Member


Jill D. Golis, Member


Warren D. Noteware, Member

