

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Temporary)
Permit 20366 (Application 29527)
OF)
CITY OF WILLITS)
Permittee,)
CALIFORNIA DEPARTMENT OF)
FISH AND GAME)
Objector)

ORDER: WR 89-22
SOURCE: Finney Valley Creek
COUNTY: Mendocino

FINDINGS AND ORDER VALIDATING
TEMPORARY PERMIT

The City of Willits having filed Application 29527 for a conditional temporary urgency permit to divert and use water pursuant to Chapter 6.5 (commencing with Section 1425), Part 2, Division 2 of the Water Code; the State Water Resources Control Board (Board) having consulted with the California Department of Fish and Game (Department); Board Member Eliseo M. Samaniego, having reviewed available information, authorized issuance of a temporary permit; a temporary permit having been issued on September 6, 1989; the Board finds as follows:

Substance of the Application

1. On July 25, 1989, the City of Willits (City) filed for a temporary permit from the Board to divert 600,000 gallons per

day, not to exceed 75 acre-feet, from Finney Valley Creek for municipal use within the City's service area. Water will be diverted between September 6, 1989 and March 6, 1990. The San Francisco Bay Area Council of Boy Scouts of America (Council) has agreed to release 75 acre-feet of water from its upstream reservoir into Finney Valley Creek for diversion by the City.

2. The Council has an 800 acre-foot capacity reservoir (Scout Lake) at the Council's Boy Scout Camp in Finney Valley located approximately four miles east of the City. The water is stored in the reservoir under water right Licenses 8042 and 8043 (Applications 19415 and 19755).
3. Water released from the Council reservoir will be diverted from Finney Valley Creek at an 18-inch high concrete check dam located about 1½ miles downstream of Scout Lake. At the diversion point, the water will be pumped from the pool behind the check dam by a 10 horsepower sump pump and a 10 horsepower line pump through 11,200 feet of eight-inch steel pipeline placed on top of the ground. The pipeline connects to the City's existing East Road filtration plant located about two miles south of the check dam.

Temporary Urgency Need of Applicant to Divert and Use Water

4. Dry water conditions this year have resulted in a low water supply in the upper Coastal Range and consequently a critically low water supply for the City.

5. The City normally receives its water supply from a 730 acre-foot capacity reservoir at Morris Dam located on Davis Creek about four miles southeast of the City. The water is collected and stored in the reservoir under water right License 11311 (Application 4572) and Permit 17613 (Application 25666). This year, the reservoir is dangerously low due to dry water conditions. On August 23, 1989, the City Council declared an "Existence of a Local Emergency".

6. The City had planned to use its "Park" well as an emergency supply of water under similar circumstances in 1987; however, tests revealed that the water from the well exceeded drinking water standards for arsenic, iron, and manganese. The State Department of Health Services stated that use of this well would create unnecessary public health concerns and that use of the well should be avoided unless there is no feasible alternative that would provide drinking water meeting State standards.

7. The City has implemented a stringent water conservation ordinance. The City is also constructing another reservoir on Davis Creek upstream of Morris Reservoir to provide additional storage capacity for future years. On July 28, 1989, the Board issued the City a permit on Application 29205 for storage of 767 acre-feet per annum in the new reservoir.

8. Based on the above information, the Board concludes that the City has an urgent temporary need to divert and use water as authorized by Temporary Permit 20366.

Effect of the Diversion on Lawful Users of Water

9. Prior to issuance of Temporary Permit 20366, Application 29527 was noticed on August 4, 1989, in accordance with the Water Code. The notice was sent to all affected downstream diverters and to interested parties known to the Board. The only objection received by the Board was from the Department (see finding 10 below).

Since the water to be diverted will be made available by upstream releases of stored water, the Board concludes that water may be diverted and used under Temporary Permit 20366 without injury to any lawful user of water.

Effects of the Diversion on Fish, Wildlife and Other Instream

Uses

10. The Department filed an objection stating that Finney Valley Creek supports viable runs of steelhead trout and nongame fish species, and contains a riparian corridor which is important for fish and wildlife species. The Department determined that the proposed diversion and method of diversion could adversely impact fish and wildlife resources. However, the Department concluded that with proper design, maintenance, and operation of the diversion facilities, the potential for adverse impacts could be minimized. The Department withdrew its objection when the applicant agreed to comply with terms 14, 15 and 16 in the temporary permit.

Term 14 of the temporary permit requires erosion control measures and provides operational criteria to protect and preserve fishlife and maintain the riparian habitat of Finney Valley Creek. Term 15 requires the installation of a device to measure the flows required by conditions of the temporary permit. Term 16 mandates that the applicant enter into a Stream Alteration Agreement with the Department prior to any diversion under the temporary permit.

As the Department's objection has been resolved, the Board concludes that water may be diverted and used under the

temporary permit without any unreasonable adverse effect upon fish, wildlife, or other instream beneficial uses.

Findings Concerning the California Environmental Quality Act

11. The project is an emergency project and is therefore exempt from the California Environmental Quality Act pursuant to Title 14, California Code of Regulations, Section 15269(c) (emergency exemption).

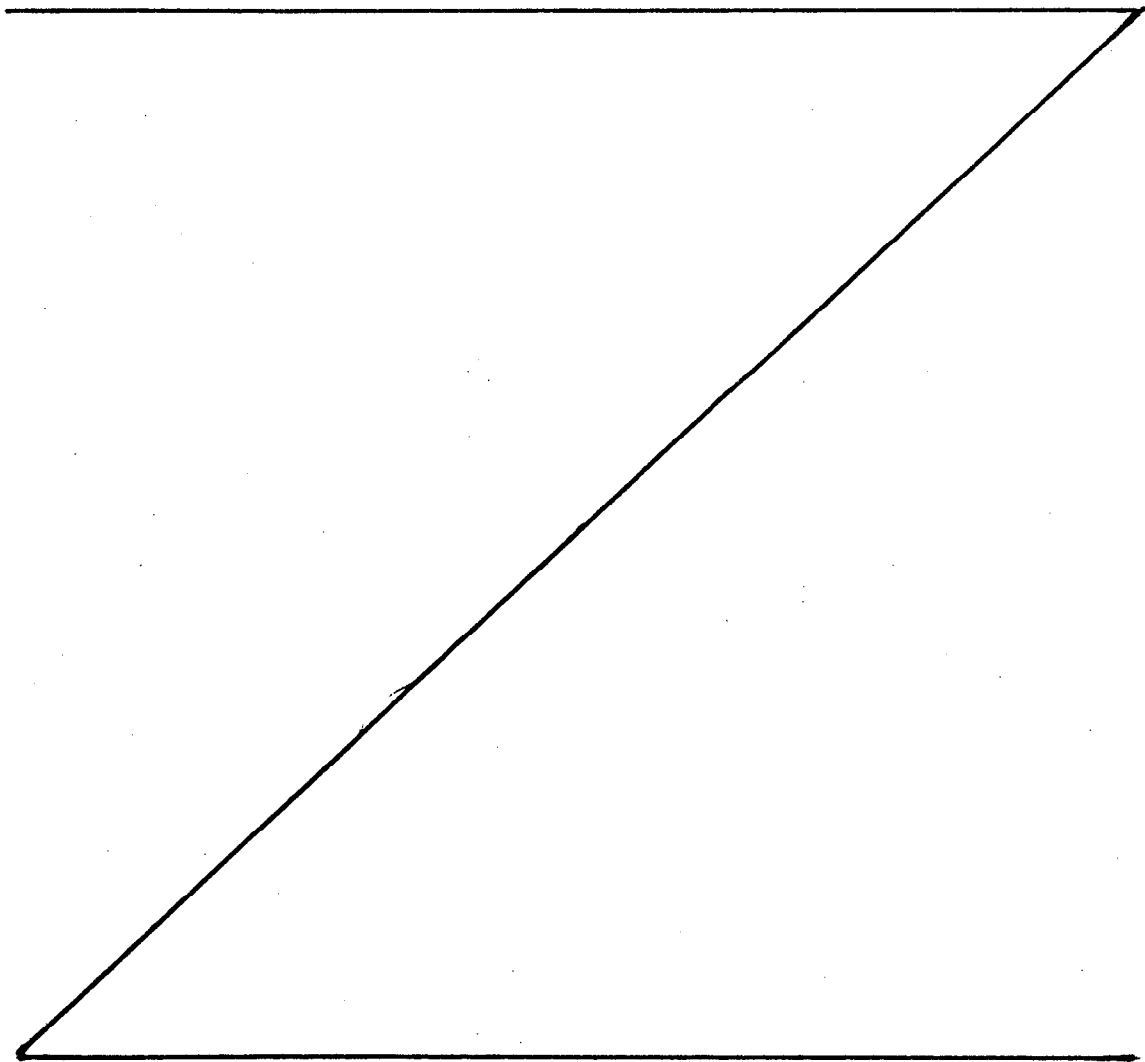
Public Interest

12. The Board concludes that diversion and use of water under Temporary Permit 20366 is in the public interest and in accordance with the constitutional policy that the water resources of the State be put to beneficial use to the fullest extent of which they are capable.

Issuance of Temporary Permit

13. Water Code Section 1425 provides for delegation of the authority to issue temporary permits. The Board has delegated this authority to each Board Member. Section 1425 further requires that when the delegated authority is exercised, the Board shall, not later than 30 days following issuance, review and validate any temporary permit so issued.

Board staff explained the foregoing situation to Board Member Samaniego and recommended approval of the temporary permit. Board Member Samaniego concurred with the staff recommendation, and on September 6, 1989 authorized issuance of the temporary permit. On September 6, 1989, Walter G. Pettit, Chief of the Division of Water Rights, issued Temporary Permit 20366.



ORDER

NOW, THEREFORE, IT IS ORDERED THAT issuance of Temporary Permit 20366 is validated subject to the conditions specified in the permit.

CERTIFICATION

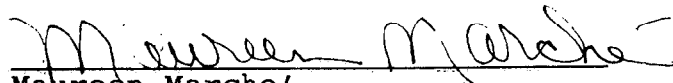
The undersigned, Administrative Assistant to the Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on OCTOBER 4 1989

AYE: W. Don Maughan
Edwin H. Finster
Danny Walsh

NO: None

ABSENT: Darlene E. Ruiz
Eliseo M. Samaniego

ABSTAIN: None


Maureen Marche
Administrative Assistant to the Board