

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 24240)
of Cuesta La Honda Guild, Inc., to)
Appropriate from Mindego Creek and) Decision 1487
an Unnamed Stream in San Mateo County.)

DECISION APPROVING APPLICATION IN PART

BY THE BOARD:

Cuesta La Honda Guild, Inc., having filed Application 24240 for a permit to appropriate unappropriated water; protests having been received; the applicant 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 (hereinafter referred to as "Board") pursuant to said stipulation; the Board, having considered all available information, finds as follows:

Applicant's Existing Development

1. San Gregorio Creek, which drains a portion of the western slope of the Coast Range, debouches into the Pacific Ocean on the coastline of San Mateo County about 35 miles south of San Francisco. San Gregorio Creek is formed by the confluence of La Honda Creek and Alpine Creek. La Honda Creek, the northern tributary, is joined by Woodhams Creek about a mile above the confluence; Alpine Creek, the southern tributary, is joined by Mindego Creek about two miles above the confluence. An existing subdivision, La Honda, lies near the confluence of La Honda Creek and its tributary Woodhams Creek.

1487

2. Applicant, a mutual water company, presently serves approximately 270 connections at La Honda through License 10511 (Application 22782). This entitlement allows direct diversion from Woodhams Creek and from Mindego Creek and 15.35 acre-feet per annum (afa) by storage in an existing reservoir located on an unnamed tributary to Woodhams Creek; the reservoir captures water from this tributary and stores water diverted to offstream storage from Woodhams Creek and Mindego Creek. The authorized diversion season, for both direct diversion and storage, is from October 1 to June 1. This season was established by Decision 1324 which affirmed findings of earlier decisions that downstream use on San Gregorio Creek precluded further upstream appropriations during the summer months. The total amount allowed from all sources under applicant's existing entitlement is 48.7 afa.

3. Applicant's existing reservoir (Granny Flats) has a capacity of 15 acre-feet; however, the applicant has installed flashboards which temporarily raise that capacity to 19.7 acre-feet; only 15.35 acre-feet of storage is authorized by applicant's existing entitlement. Records indicate that over 28 acre-feet was used during the June through September period in 1972. Moreover, use during May exceeded the direct diversion entitlement amount by 29 percent. Finally, total use in 1972 was 64.3 acre-feet, compared to the entitlement limitation of 48.7 afa. It is apparent that the amount under applicant's existing entitlement has been exceeded and that applicant has diverted outside the authorized season.

The Application and Proposed Project

4. Applicant estimates that its number of connections will increase to 320 by 1985 and to 370 by 2000; its annual use is projected to increase from about 68 acre-feet in 1971 to 130 acre-feet in 2000. The instant application was filed to obtain rights sufficient to meet future demands.

5. The instant application proposed additional storage in the existing Granny Flats Reservoir and storage in a newly completed reservoir with a capacity of about 15 acre-feet located on an unnamed creek. However, the new reservoir washed out last winter and the application was amended to appropriate water in three small reservoirs. Specifically, the application now seeks a permit to appropriate 0.1 cfs by direct diversion from Mindego Creek from June 1 to October 1 of each year, and to appropriate 30 afa by storage in three reservoirs from unnamed streams, to be collected year round. The beneficial uses to be served are domestic, recreational, and fire protection. The points of diversion are to be located within the SE $\frac{1}{4}$ of SE $\frac{1}{4}$ Section 14, T7S, R4W, MDB&M; the SE $\frac{1}{4}$ of SE $\frac{1}{4}$ and the SW $\frac{1}{4}$ of SW $\frac{1}{4}$ Section 13, T7S, R4W, MDB&M. The total amount of water proposed to be diverted directly or to storage is not to exceed 55 afa under the instant application.

6. Applicant alleges that additional streamflow data have been collected since the decisions mentioned in finding 2 which justify summer diversions.

Protests

7. The project was advertised prior to making the amendments to the application. However, readvertisement was not

deemed necessary since the project as now proposed would create no additional adverse impacts to downstream users. Several protests were received from diverters on San Gregorio Creek to which Mindego and Woodhams Creeks are tributary. In addition, the Board's records indicate that there are numerous users of water from San Gregorio Creek who did not protest these applications. Protestants claim that unappropriated water is not available for diversion by the applicant during the summer, either directly or to storage. These diverters did not object to diversions by the applicant during the winter months.

8. Protestant Department of Fish and Game and applicant have agreed to dismissal of the Department's protest provided that any permit issued pursuant to Application 24240 requires (1) the bypass of the total flow in Mindego Creek or 1 cfs, whichever is less, at all times, (2) suitable measuring devices, and (3) fish screens on the direct diversion intakes.

Environmental Considerations

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

10. To mitigate possible adverse impacts on fish and wildlife, the applicant has agreed to inclusion of the terms proposed by the Department of Fish and Game, as enumerated in paragraph eight (8).

Existence of Unappropriated Water

11. In 1969 the U. S. Geological Survey (USGS) installed a gauging station on lower San Gregorio Creek located approximately 1.5 miles upstream from the mouth of the creek and approximately 10 miles below the points of diversion described by Application 24240. The applicant contends that the records of this station justify a reexamination of past Board decisions regarding summer diversions from the San Gregorio Creek stream system. For the period of record (1970-1973) the mean monthly discharges at the gauging station for the months of June through September were as follows: June, 4.8 cfs; July, 2.3 cfs; August, 1.3 cfs; and September, 1.2 cfs. There are diverters and potential diverters below the San Gregorio gauge, and, therefore, flows at that location are not entirely surplus.

12. The only flow records for Mindego Creek consist of several spot measurements made during July and August 1974 and February 1975. The bypass flow condition requested by the Department of Fish and Game was greater than the flow measured at applicant's Mindego Creek point of diversion during August of 1974, a year of substantially greater than average surface flow.

13. The record of the San Gregorio Creek gauging station is of relatively short duration. There is a USGS gauging station on Pescadero Creek, the next watershed to the south, which has been maintained for over 20 years. By correlating the flows of San Gregorio Creek with those in Pescadero Creek, a more extensive assessment of the availability of water in San Gregorio Creek can be made. San Gregorio Creek and Pescadero Creek have adjacent and similar watersheds. Such a correlation shows that the period 1969-1973 is not representative and on the average less

water is available in San Gregorio Creek than would appear from the record for that period.

14. The additional information furnished by the applicant does not warrant a different conclusion as to existence of unappropriated water in the San Gregorio Creek drainage system from that expressed in previous Board decisions. While there may be water surplus to the needs of holders of vested rights at times during the summer months, it does not occur in sufficient quantities and at sufficient times to justify the approval of summer diversions of water, particularly by a municipal water purveyor which must have a dependable supply. A permit to cover the few random months during the applicant's proposed summer diversion season when ample surplus water is available would be of little or no value to the applicant.

15. Analysis of the records of the gauging station at San Gregorio establishes that unappropriated water is available to supply applicants storage needs during November 1 to May 31, 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.

16. Because of our findings that summer diversions cannot be made, the total annual appropriation requested under this application will be reduced from 55 afa to 30 afa.

17. The intended use is beneficial.

Additional Storage

18. The total annual diversion allowed under this application, as approved in part, and License 10511 will total 79 afa. A comparison of this figure with applicant's projection

of its needs shows that additional storage or other alternative supply may be necessary beyond that proposed in the application.

19. To avoid a repetition of the present situation whereby applicant's water rights are not sufficient to meet demands, approval of this application should be conditioned to require an analysis by applicant of what additional storage or alternative supplies, if any, are necessary to meet its projected water demands. This analysis, to include a plan for satisfying its projected demands, should be completed within 12 months of the date of the permit issued pursuant hereto.

From the foregoing finding, the Board concludes that Application 24240 should be approved in part and that a permit should be issued to the applicant subject to the limitations and conditions set forth in the order following. The records, documents and other data relied upon in determining the matter are: Application 24240 and all relevant information on file therewith including the Engineering Staff Analysis, dated April 11, 1975, and Initial Study, dated April 15, 1977.

ORDER

IT IS HEREBY ORDERED that Application 24240 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 a total of 30 acre-feet per annum to be collected from November 1 of each year to May 31 of the succeeding year as follows:

(1) 11.5 acre-feet per annum in Reservoir #1, (2) 10.5 acre-feet per annum in Reservoir #2, and (3) 8.0 acre-feet per annum in Reservoir #3.

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

3. Said construction work shall be completed on or before December 1, 1981.

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. Pursuant to Water Code Section 100, 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 the permit.

9. For the protection of fish and wildlife, permittee shall during the period from November 1 of each year through May 31 of the succeeding year bypass a minimum of one cubic foot per second. The total streamflow shall be bypassed whenever it is less than the designated amount for that period.

10. No water shall be diverted under this permit until permittee has installed a device, satisfactory to the State Water Resources Control Board, which is capable of measuring the flow(s) required by the conditions of this permit. Said measuring device shall be properly maintained.

11. In accordance with Section 1603 and/or Section 6100 of the Fish and Game Code, no water shall be diverted under this permit until the Department of Fish and Game has determined that measures necessary to protect fishlife have been incorporated into the plans and construction of such diversion. The construction, operation, or maintenance costs of any facility required pursuant to this provision shall be borne by the permittee.

12. The total quantity of water diverted under this permit together with that diverted under License 10511 shall not exceed 79 acre-feet per annum.

13. Permittee shall evaluate its projected water demands and determine what additional storage facilities or other alternative supplies, if any, are necessary to meet its increased needs.

Permittee shall develop a plan to meet these needs and file said plan with the Division of Water Rights within 12 months of the date of this permit.

14. The State Water Resources Control Board specifically reserves jurisdiction to limit or prohibit further water supply connections and to impose as additional special permit conditions water conservation measures, if necessary to ensure that the applicant's water right entitlements will not be exceeded.

Dated: October 19, 1978

JOHN E. BRYSON
John E. Bryson, Chairman

W. DON MAUGHAN
W. Don Maughan, Vice Chairman

WILLIAM J. MILLER
William J. Miller, Member

L. L. MITCHELL
L. L. Mitchell, Member

