

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 23636 )  
of Jerry G. Brassfield and )  
Walt S. Hoefler to Appropriate )  
from Burns Creek Tributary to )  
West Branch Soquel Creek in )  
Santa Cruz County )

Decision 1497

DECISION APPROVING APPLICATION

BY THE BOARD:

Jerry G. Brassfield and Walt S. Hoefler having filed Application 23636 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 protestants having appeared and presented evidence; the evidence received at the hearing having been duly considered, the Board finds as follows:

Substance of the Application

1. Application 23636 (as amended 8/15/78) is for a permit to appropriate four acre-feet per annum by storage from November 1 of each year to June 1 of each succeeding year by pumping to offstream storage from Burns Creek which is tributary to West Branch Soquel Creek thence Soquel Creek. The water is to be used for domestic and landscape irrigation. The point of diversion is to be located in the NW $\frac{1}{4}$  of NW $\frac{1}{4}$ , Section 27, T9S, R1W, MDB&M.

Protests

2. The application was protested by the City of Capitola (city) at the mouth of Soquel Creek 11 miles downstream from applicants' project

on the basis of claimed interference with "prior water rights and prior Application 11465". The protest alleged that the proposed diversion would reduce the flow in the Soquel Creek below that necessary to maintain a safe and healthful condition at Capitola Lagoon. Protestant states that the protest will be withdrawn if the applicants agree to delete the season May through October from the diversion season or agree not to divert water when the flow at Capitola Lagoon is less than 3 cubic feet per second (cfs).

A joint protest was also submitted by Gateway, Inc., and Summit Mutual Water Company who share a diversion on West Branch Soquel Creek one mile downstream from the applicants' project. Protestants alleged that applicants' proposed diversion would invade protestants prior rights established under Application 22552. Dismissal conditions indicate that this protest will be withdrawn if the applicants agree not to divert from June 1 to November 31.

The applicant has reduced the requested storage amount from 20 af to 4 af and has deleted direct diversion of 0.1 cfs from the application. This complies with the withdrawal of protest conditions except for diversions during the months of November and May.

#### Existence of Unappropriated Water

4. The U. S. Geological Survey has maintained continuous stream flow recorders on West Branch Soquel Creek near Soquel measuring about 27% of the Soquel Creek watershed and on Soquel Creek at Soquel measuring practically the entire watershed. The average discharge for the 14 year period of record on West Branch Soquel during November was 4.6 cfs. The average discharge for the 22 year period of record on Soquel Creek during May was 20 cfs. Both records indicate that unappropriated water is available during the two months of concern to the protestants.

5. Unappropriated water is normally available to supply the applicants from November 1 to June 1, 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 necessary to comply with the California Environmental Quality Act have been completed.

ORDER

IT IS HEREBY ORDERED that Application 23636 be approved and that a permit be issued to the applicants subject to vested rights. The permit shall contain all applicable standard permit terms (Board maintains a list of standard permit terms which are available upon request) in addition to the following limitations:

1. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 4 acre-feet per annum to be collected from November 1 of each year to June 1 of each succeeding year.

2. Rights under this permit are, and shall be, subject to existing rights determined by the Soquel Creek Adjudication, Superior Court, Santa Cruz County, No. 57081 insofar as said adjudicated rights are maintained, and such other rights as may presently exist.

Dated: April 19, 1979

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

/s/ WILLIAM J. MILLER  
William J. Miller, Member

/s/ L. L. MITCHELL  
L. L. Mitchell, Member

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