

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

IN THE MATTER OF TEMPORARY PERMIT 20250 (APPLICATION 29307))	ORDER:	WR 88- 16
MAMMOTH COUNTY WATER DISTRICT,)	SOURCE:	LAKE MARY, LAKE GEORGE LAKE MAMIE, TWIN LAKES AND MAMMOTH CREEK
Permittee)	COUNTY:	MUNO

FINDINGS AND ORDER VALIDATING
TEMPORARY PERMIT

Mammoth County Water District, (hereinafter referred to as District), having filed Application 29307 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 Department of Fish and Game; Board Chairman Maughan having concluded from available information that the District should be granted a temporary permit to divert and use water, subject to review and validation by the Board as provided by Water Code Section 1425(d); the Board finds as follows:

1. Substance of the Application

Application 29307 is for a temporary permit to divert 7.5 cubic feet per second (cfs) from Mammoth Creek and Lake George, Lake Mary, Lake Mamie and Twin Lakes and to divert to storage 660 acre-feet (af) in Lake Mary, 60 af in Lake Mamie and 20 af in Twin Lakes from July 26, 1988 to December 31, 1988. The water will be used for municipal, fish protection and fish enhancement purposes within the service area of the District and in Mammoth Creek within Sections 27, 28, 33, 34, 35 and 36, T3S, R27E, and Sections 1 (projected), 2 (projected), 3, 4, and 10 (projected), T4S, R27E, Sections 5 and 6, T4S, R28E, and Sections 31, 32, and 33, T3S, R28E, MDB&M. Of the 7.5 cfs directly diverted, 2.5 cfs is to be used for fishery protection and enhancement purposes in Mammoth Creek. The application for a temporary permit was accompanied by the District's proposed "1988 Emergency Water Operating Procedures for the Mammoth Creek Watershed." These operating procedures are a result of meetings with the Department of Fish and Game, the U. S. Forest Service, California Trout Inc., and the California Sportfishing Protection Alliance. Operation in accordance with the specified procedures is required by temporary permit term 10.

2. Water Rights Of the District

The District holds or has applied for the following water rights for domestic and municipal purposes within the service area of the District:

- A. License 5715 (Application 12079) to divert 25,000 gallons per day from Lake Mary from May 1 to November 1.
- B. Permit 1463 (Application 17770) to divert two cfs from Lake Mary from January 1 to December 31.

- C. Permit 17332 (Application 25368) to divert three cfs and the storage of 660 af at Lake Mary. Direct diversion is authorized from January 1 to December 31. Collection to storage is authorized from April 1 to June 30 and from September 1 to September 30.
- D. Application 27379 filed by the District on July 7, 1982 to divert 257 acre-feet per annum to storage in George Lake is still pending and will be processed when the protest filed by the U. S. Forest Service is resolved.

The total quantity of water diverted under the rights specified in items A, B, and C above may not exceed -2,760 acre-feet per annum.

The District is required to bypass all natural inflow to Lake Mary when certain minimum flows are not maintained at a point downstream in Mammoth Creek near Highway 395 as required by permit term 23 in Permit 17332.

3. Urgent Need of Applicant to Divert and Use Water

- A. The Mammoth Creek Watershed is confronting water shortages due to drought for the last two successive years. Precipitation in the Mammoth Lake area for water year 1986-87 was 51 percent of normal and in 1987-88 is estimated to be 58 percent of normal. The District has water rights with the Board to divert and use 2,760 acre-feet per annum. However, because of operational constraints in the Master Operational Agreement with the U. S. Forest Service, and limitations in its existing water right permits and license, the District cannot utilize its full entitlement when precipitation is less than 100 percent of normal. Since precipitation for July 1987 through June 1988

was 53 percent of normal, the District is confronting hardship to serve its water needs. The District's use of surface water for the period January 1 through June 30, was 756 acre-feet in 1987 and 802 acre-feet in 1988 compared to 1,080 af for the same period during normal years. The overall reduction in water use within the District during 1988 was 8 percent. Wastewater production during this period increased 7 percent over 1987 indicating an increase in population. The District increased its use of ground water during the same period by 228 percent.

- B. The District declared an emergency and imposed various water conservation measures to reduce water consumption. They include District's Resolutions 04-16-87-13, 05-21-87-14, and 07-21-88-18. The conservation measures include reducing landscape irrigation to three days per week and elimination of water use for dust control, planting of new lawns, and unreasonable or wasteful landscape irrigation methods.
- C. The District projects that the natural inflow into Lake Mary might decrease to substantially below one cfs during the later part of this year. If the District meets the requirements of the conditions of its existing water rights and bypasses only the Lake Mary natural inflow, the flows bypassed into Mammoth Creek will be substantially less than one cfs later in the year. The required flow in Mammoth Creek is 25 cfs for the month of July, 10 cfs for August, and 6 cfs from September 1 to December 31 or the natural flow whichever is less. Extremely low flows in Mammoth Creek could cause significant injury to the resident fishery.

Temporary Permit 20250 issued in July 1988 allowed the District to reduce immediately the bypass and maintain a minimum of 1.5 cfs release into Mammoth Creek (inflow was 7.8 cfs on August 10, 1988). Reducing

current bypass requirements allows for retaining more water in storage which can be used for maintaining higher creek flows later in the year than are required under the District's license and regular permits. Maintaining higher flow levels later in the year should reduce negative impacts on the fishery resource.

Based on the above information, the Board concludes that the applicant has an urgent need to divert and use water as authorized by Temporary Permit 20250.

4. Exercise of Existing Water Rights

Term 8 of Temporary Permit 20250 prohibits the District from exercising its existing water rights for as long as the temporary permit is in effect. This action relieves the District from complying with the existing bypass conditions and allows the bypass requirements set forth in term 10 to be used for as long as the temporary permit is in effect. The District will still be required to meet all requirements of their existing license and permits that are not in conflict with their temporary permit.

5. Effect of the Diversion on Any Lawful User of Water

The temporary permit was noticed as required by the Water Code on July 27, 1988. Notice was sent to all affected downstream diverters and interested parties known to the Board. The notice was published in the Review/Mono Herald and Bridgeport Chronicle-Union. The following comments have been received:

- A. The California Sportfishery Protection Alliance supports the temporary permit provided the District: (i) does not amend its application

submitted to the board for a temporary permit; and (ii) conduct a study at District's expense to determine minimum flow requirements for the protection of fishery in the Mammoth Creek Watershed.

Response

The District has not requested any amendments to its Application 29307 for a temporary permit. Term 11 in the temporary permit requires the District to conduct an instream flow study.

- B. California Trout has no objection to the issuance of a temporary permit to the District provided the District: (i) continues to implement water conservation measures as contained in the 1987 temporary permit; (ii) monitors and submits data pertaining to flows and drawdown from the lakes to the Board; and (iii) retains a contractor to conduct a study for development of an accurate criteria for the operation of Mammoth Creek Watershed that will reasonably protect the instream beneficial uses.

Response

Terms 10, 11, 12 and 16 in the 1988 temporary permit address the above concerns raised by the California Trout.

- C. The U. S. Forest Service has no objection to issuance of a 1988 temporary permit to the District as long as the Board continues to enforce all the conditions contained in the 1987 temporary permit. In addition, the U. S. Forest Service has proposed that two terms substantially as follows be added in the 1988 temporary permit.

(i) The District shall negotiate with the U. S. Forest Service and compensate for the reasonable losses of forage production in the Forest Service pasture area which is the consequence of the two years of inadequate flows from the Bodle Ditch.

(ii) Before water is removed from Lake George, the District shall meet with the U. S. Forest Service and California Department of Fish and Game to review potential impacts on the lake and to develop contingency measures to protect the outlet area and fishery habitat in the Lake George outlet stream.

Response

Except one, all the remaining terms contained in 1987 temporary permit were updated for current conditions where necessary and retained in the 1988 temporary permit. The U. S. Forest Service's proposal to add the above two new terms in the 1988 temporary permit were discussed with the District staff. The District has no problem if the Board amends the 1988 temporary permit and adds the above two terms.

6. Effects of the Diversion on Fish, Wildlife and Other Instream Uses

Board staff consulted with the Department of Fish and Game whose concerns have been addressed by condition 10 and 11 incorporated into the temporary permit. Diversion of water under the terms of the temporary permit will allow for maintaining higher flows in Mammoth Creek in the later part of the year than would otherwise exist. The Board concludes that water may be diverted and used under the temporary permit without unreasonable adverse effect upon fish, wildlife, or other instream beneficial uses.

7. Compliance With the California Environmental Quality Act

An environmental analysis has shown the project meets the requirements of Section 15307 of the California Environmental Act Guidelines and is a Class 7 Categorical Exemption.

8. Public Interest

The Board concludes that diversion and use of water by the District under a temporary permit 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.

9. Issuance of Temporary Permit

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

Board staff explained the foregoing situation to Board Chairman Maughan and recommended approval of the temporary permit. Board Chairman Maughan concurred with the staff recommendation, and on July 26, 1988 authorized issuance of the temporary permit. On the same date, Lloyd Johnson, Acting Chief of the Division of Water Rights, issued Temporary Permit 20250.

ORDER

NOW THEREFORE IT IS ORDERED THAT issuance of temporary permit 20250 is validated subject to the conditions specified in the permit and the following two additional conditions:

- A) The permittee shall negotiate with the U. S. Forest Service and compensate for the reasonable losses of forage production in the Forest Service pasture area which is the consequence of the two years of inadequate flows from the Bodle ditch.
- B) Before water is removed from Lake George, the permittee shall meet with the U. S. Forest Service and Department of Fish and Game to review potential impacts on the lake and to develop contingency measures to protect the outlet area and fishery habitat in the Lake George outlet stream.

CERTIFICATION

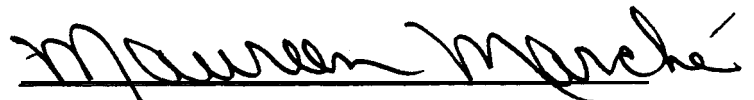
The undersigned, Administrative Assistant to the Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on August 18, 1988.

AYE: W. Don Maughan
Darlene E. Ruiz
Edwin H. Finster
Danny Walsh

NO: None

ABSENT: Eliseo M. Samaniego

ABSTAIN: None



Maureen Marche'

Administrative Assistant to the Board

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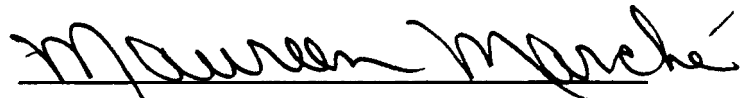
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Darlene E. Ruiz
Edwin H. Finster
Danny Walsh

NO: None

ABSENT: Eliseo M. Samaniego

ABSTAIN: None



Maureen Marche'

Administrative Assistant to the Board