

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 23710)
of City of Santa Cruz to Appropriate)
from San Lorenzo River in Santa Cruz) Decision 1406
County.)

DECISION APPROVING APPLICATION IN PART

City of Santa Cruz having filed Application 23710 for a permit to appropriate unappropriated water; protests having been received; the applicant and the remaining protestant having stipulated to proceedings in lieu of hearing as provided for by Title 23, California Administrative Code, Section 737; an investigation having been made by the State Water Resources Control Board pursuant to said stipulation; the Board, having considered all available information, finds as follows:

Substance of Application

1. Application 23710 is for a permit to appropriate 3,000 acre-feet per annum by offstream storage to be collected from September 1 of each year to June 1 of the succeeding year for municipal purposes from the San Lorenzo River in Santa Cruz County. The point of diversion is to be located within the SE $\frac{1}{4}$ of NW $\frac{1}{4}$, Section 22, T10S, R2W, MDB&M. The maximum rate of diversion to off-stream storage will be 20 cubic feet per second (cfs).

Applicant's Project

2. Application 23710 is for the same amount of water covered by the applicant's Permit 16123 (Application 22318) and is not accumulative. The application was filed to obtain authority to increase the rate of diversion to offstream storage from 3,500 gallons per minute, approximately 8 cfs, to 20 cfs.

The applicant now holds License 9847 (Application 17913) to store 5,600 acre-feet in Loch Lomond Reservoir on Newell Creek which is an upper tributary of the San Lorenzo River. The water covered by Application 23710 and Permit 16123 (Application 22318) will be diverted from the San Lorenzo River at proposed Felton pumping station near the river's junction with Zayante Creek. The water will be pumped upstream approximately two miles into Loch Lomond Reservoir for later release into the same pipeline system for conveyance to the city.

Protests

3. A protest was filed by the Department of Fish and Game to protect the steelhead trout which utilize the San Lorenzo River for spawning, as a nursery area, and for migration to and from the ocean. A protest was also filed by California Trout, Inc., to protect the San Lorenzo stream system as a fishery resource and to protect the quality of the water in the system. This protest also questions the applicant's need for additional water storage in Loch Lomond Reservoir and raises questions as to the effect of the applicant's project on the environment and other matters.

Existence of Unappropriated Water

4. By its approval of Application 22318 (Permit 16123), the Board found that there was sufficient unappropriated water available in the San Lorenzo River to supply the applicant's project, and no protests were filed against Application 23710 alleging that this finding was incorrect.

Disposition of Protests

5. By agreement dated August 12, 1971, the Department of Fish and Game agreed to dismiss its protest provided certain minimum flows are maintained in the San Lorenzo River past the applicant's point of diversion for the preservation of fish and wildlife. It was agreed that from September 1 through September 30 the applicant shall bypass 10 cfs or the natural flow, whichever is less, and 20 cfs or the natural flow, whichever is less, from October 1 through May 31. Since this agreement was executed, the applicant has agreed to delete the month of September from its diversion season and to increase the minimum bypass in the San Lorenzo River during the month of October from 20 cfs to 25 cfs or the natural flow of the river, whichever is less (letter to board staff dated March 2, 1972; files on Application 23710). It also agreed that these further restrictions should apply to its Permit 16123 (Application 22318). Such flows are reasonably necessary and adequate to protect the San Lorenzo River as a fishery resource, and it is in the public interest that they be maintained.

6. The protest of California Trout, Inc., requests the Board to prohibit additional diversions to Loch Lomond Reservoir unless alleged damage to the fishery resource of the San Lorenzo River system by the applicant's project is mitigated by a fish planting program and by additional releases of water from Loch Lomond Reservoir. It also requests the Board to postpone storage of water under any permit issued pursuant to Application 23710 until the need for the water is demonstrated and alternate sources of water are found infeasible. Further, it is requested that any permit issued pursuant to Application 23710 expire after 25 years.

The applicant has authority to store the water covered by Application 23710 under its Permit 16123 (Application 22318) whether or not Application 23710 is approved. The Board has no authority to limit arbitrarily rights evidenced by a permit or license to a period of 25 years. The protestant has not produced evidence to show that the increase in the rate of diversion to offstream storage proposed by Application 23710, subject to the bypass provision previously discussed, will have an adverse effect upon the San Lorenzo River fishery resource. This increase in the rate of diversion will be the sole result of approval of Application 23710, except that the fishery resource will be better protected by eliminating diversions during the month of September and increasing the amount of water bypassed during the month of October from 20 cfs to 25 cfs. The standard permit terms concerning water quality which will be

included in the permit issued pursuant to Application 23710 will adequately protect the San Lorenzo River from any adverse effect upon the quality of the water resulting from the applicant's project. Other matters raised by this protestant are beyond the authority of this Board in acting upon Application 23710.

From the foregoing findings, the Board concludes that Application 23710 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: Applications 17913, 22318 and 23710 and all relevant information on file therewith, particularly the report of field investigation made September 21, 1971.

ORDER

IT IS HEREBY ORDERED that Application 23710 be, and it is, approved in part, and that a permit be issued to the applicant 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 3,000 acre-feet per annum by storage to be collected from October 1 of each year to June 1 of the succeeding year.

The total quantity of water diverted under this permit, together with that diverted under Permit 16123 (Application 22318), shall not exceed 3,000 acre-feet per annum.

The combined maximum rate of diversion to offstream storage under this permit and Permit 16123 (Application 22318) shall not exceed 20 cubic feet per second.

This permit does not authorize collection of water to storage outside the specified season to offset evaporation and seepage losses or for any other purpose.

2. For the protection of fish, no diversion shall be made during the month of October which depletes the flow of the stream to less than 25 cubic feet per second nor to less than 20 cubic feet per second during the period November 1 to the succeeding May 31. No water shall be diverted until the permittee has installed in the stream immediately below its point of diversion a staff gage, or other device satisfactory to the State Water Resources Control Board, showing the water levels which correspond to the above-mentioned flows in cubic feet per second. As a condition of continuing diversion, said measuring device shall be properly maintained.

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

4. Actual construction work shall begin on or before nine months from date of permit and shall thereafter be prosecuted

with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked.

5. Said construction work shall be completed on or before December 1, 1975.

6. Complete application of the water to the proposed use shall be made on or before December 1, 1980.

7. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued.

8. All rights and privileges under this permit, 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.

9. 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.

10. 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 this permit.

11. Permittee shall accord to the public, for the purpose of fishing, the right of access to the waters impounded in Loch Lomond Reservoir during the open season for the taking of fish subject to the regulations of the Fish and Game Commission.

12. In order to prevent degradation of the quality of water during and after construction of the project, prior to beginning of construction permittee shall file a report pursuant to Water Code Section 13260 and shall comply with any waste discharge requirements imposed by the California Regional Water Quality Control Board, Central Coast Region, or by the State Water Resources Control Board.

Adopted as the decision and order of the State Water
Resources Control Board at a meeting duly called and held
at Sacramento, California.

Dated: November 2, 1972

W. W. ADAMS
W. W. Adams, Chairman

RONALD B. ROBIE
Ronald B. Robie, Vice Chairman

E. F. DIBBLE
E. F. Dibble, Member

ABSENT

Roy E. Dodson, Member

MRS. CARL H. (JEAN) AUER
Mrs. Carl H. (Jean) Auer, Member

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ORDER GRANTING PETITION FOR
RECONSIDERATION OF DECISION 1406

On November 2, 1972, the State Water Resources Control Board adopted Decision 1406 in which the Board approved Application 23710 of the City of Santa Cruz (hereinafter referred to as "city").

On November 27, 1972, the city filed a petition for reconsideration of Decision 1406. The reconsideration requested concerns the 3,000 acre-feet per annum (total) limitation placed upon diversions under the permit issued pursuant to Application 23710 and Permit 16123 (Application 22318).

GOOD CAUSE APPEARING, IT IS HEREBY ORDERED that the petition for reconsideration of Decision 1406 filed by the city be, and it is, granted.

Adopted as the order of the State Water Resources
Control Board at a meeting duly called and held at Sacramento,
California.

Dated: December 21, 1972

W. W. ADAMS

W. W. Adams, Chairman

RONALD B. ROBIE

Ronald B. Robie, Vice Chairman

E. F. DIBBLE

E. F. Dibble, Member

ABSENT

Roy E. Dodson, Member

MRS. CARL H. (JEAN) AUER

Mrs. Carl H. (Jean) Auer, Member

