

STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 78- 76

DIRECTING THE EXECUTIVE DIRECTOR TO REFER TO THE ATTORNEY GENERAL THE MATTER OF UNAUTHORIZED DIRECT DIVERSION OF WATER BY DAVID S. ADAMS AND SONS, INC., FROM FISH HATCHERY CREEK AND ITS TRIBUTARY IN MARIN COUNTY.

WHEREAS:

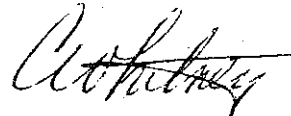
1. Application 24739 was filed by David S. Adams and Sons, Inc., on January 15, 1975, for appropriation of 0.07 cubic feet per second (31 gpm) from Fish Hatchery Creek. The State Water Resources Control Board, on July 15, 1976, issued Decision 1458 denying said application on the basis that "unappropriated water is not available to supply the applicant in the seasons and amounts requested" and "there is insufficient water available to satisfy the needs of the applicant and downstream vested rights and to maintain a viable fishery resource".
2. During the months of August and September, 1977, numerous complaints were received by the Division of Water Rights alleging that David S. Adams and Sons, Inc., were diverting water from Fish Hatchery Creek and its tributary in defiance of Decision 1458.
3. Following a staff field investigation of the diversion works on August 31, 1977, by certified letter of September 29, 1977, the Division of Water Rights advised David S. Adams and Sons, Inc., that failure to cease all further diversion of water from Fish Hatchery Creek and its tributaries until proof of valid water rights were submitted to the Board would cause the Division to request the Board to refer the matter to the Attorney General for appropriate action.
4. On October 4, 1977, Captain Wallace Callan of the Department of Fish and Game verified that David S. Adams and Sons, Inc., had removed the fuses to the electrical pumps and all diversion had ceased.
5. On November 2, 1978, following numerous telephone complaints alleging that the diversion system was again operating, staff investigated the diversion site and found the system operational.
6. The Division's records were reviewed to determine if any proof of valid water rights had been submitted to the Board. No such proof has been received.

THEREFORE BE IT RESOLVED:

1. That the State Water Resources Control Board does direct and authorize the Executive Director to refer the matter of the unauthorized direct diversion of water from Fish Hatchery Creek and its tributary without a valid permit to the Attorney General for immediate action, including obtaining all available prohibitory and mandatory relief.

CERTIFICATION

The undersigned, Executive Director of the State Water Resources Control Board, does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on December 21, 1978.



Executive Director
(C. Whitney)