

Lib

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Applications 18785
and 18786 of SONOMA COUNTY WATER
AGENCY and MENDOCINO COUNTY RUSSIAN
RIVER FLOOD CONTROL AND WATER
CONSERVATION IMPROVEMENT DISTRICT
to Appropriate From South Fork Eel
River in Lake and Mendocino Counties

Decision 1403

DECISION DENYING APPLICATIONS

The subject applicants having filed Applications 18785 and 18786 for permits to appropriate unappropriated water; protests having been received; a public hearing having been held before the State Water Resources Control Board on October 8 and 9, 1968; applicant and protestants having appeared and presented evidence; the evidence at the hearing having been duly considered; Decision 1345 having been adopted and a petition for reconsideration having been filed by the California Department of Fish and Game; said decision having been rescinded; the facts having been further considered; the Board finds as follows:

Substance of Applications

1. Application 18785 is for a permit to appropriate 345 cubic feet per second (cfs) year round by

direct diversion and 93,700 acre-feet per annum (afa) to be diverted to storage year round for municipal, irrigation, industrial, fish and wildlife protection, and streamflow maintenance purposes. The point of direct diversion is at Cape Horn diversion dam on South Fork Eel River in the NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 30, T18N, R11W, MDB&M. Diversion to storage is at Scott Dam, which forms Lake Pillsbury, on the South Fork in the NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 23, T18N, R10W, MDB&M.

Application 18786 is identical to Application 18785 except that it is for power generation, streamflow maintenance for the protection and enhancement of fish and wildlife, recreation, and aggregate processing purposes.

Applications 18785 and 18786 cover Eel River water presently stored in Lake Pillsbury and diverted directly from the river at Capehorn Dam by the Pacific Gas and Electric Company through the Company's Potter Valley Power Plant into the Russian River. The Company's project has been in operation since the year 1907. Except for 9,408 acre-feet of water which the Company delivers to the Potter Valley Irrigation District, this water, after its release from the power plant, is presently appropriated and used by the applicants under existing permits for their Coyote Valley project on the Russian River and by others. No action which the Board may take with respect to Applications 18785 and 18786 will have any effect on this water supply or the rights thereto once it reaches the Russian River watershed.

In event the Federal Power Commission should reject Pacific Gas and Electric's renewal of its license to generate power at Potter Valley Powerhouse, the applicants intend through permits on Applications 18785 and 18786 to insure a continuation of the diversion from South Fork Eel River into the Russian River valley via the Potter Valley Tunnel.

Protests and Statements

2. Protests to approval of both applications were submitted by the Department of Fish and Game and Lake County Flood Control and Water Conservation District (LCFCWCD) prior to the hearing on said applications.

A stipulation was entered into between applicant and LCFCWCD whereby the latter's protest was withdrawn before the hearing on the basis that the applicant would limit its appropriation to the historic diversion of water by PG&E and would not enlarge the capacity of the Potter Valley Tunnel.

Department of Fish and Game requested that the Board retain jurisdiction pending completion of a study of the water requirements for the maintenance of fish life.

The Department of Water Resources submitted a statement indicating that it had no objection to approval of Applications 18785 and 18786 as well as the applicant's request for release of priority of State Applications 17039 through 17044 in favor of Applications 18785 and 18786 provided that (1) Eel River diversion shall not exceed

historical diversions, and (2) any release of priority of the State applications contains a general reservation in favor of any county in which water covered by the released applications originated.

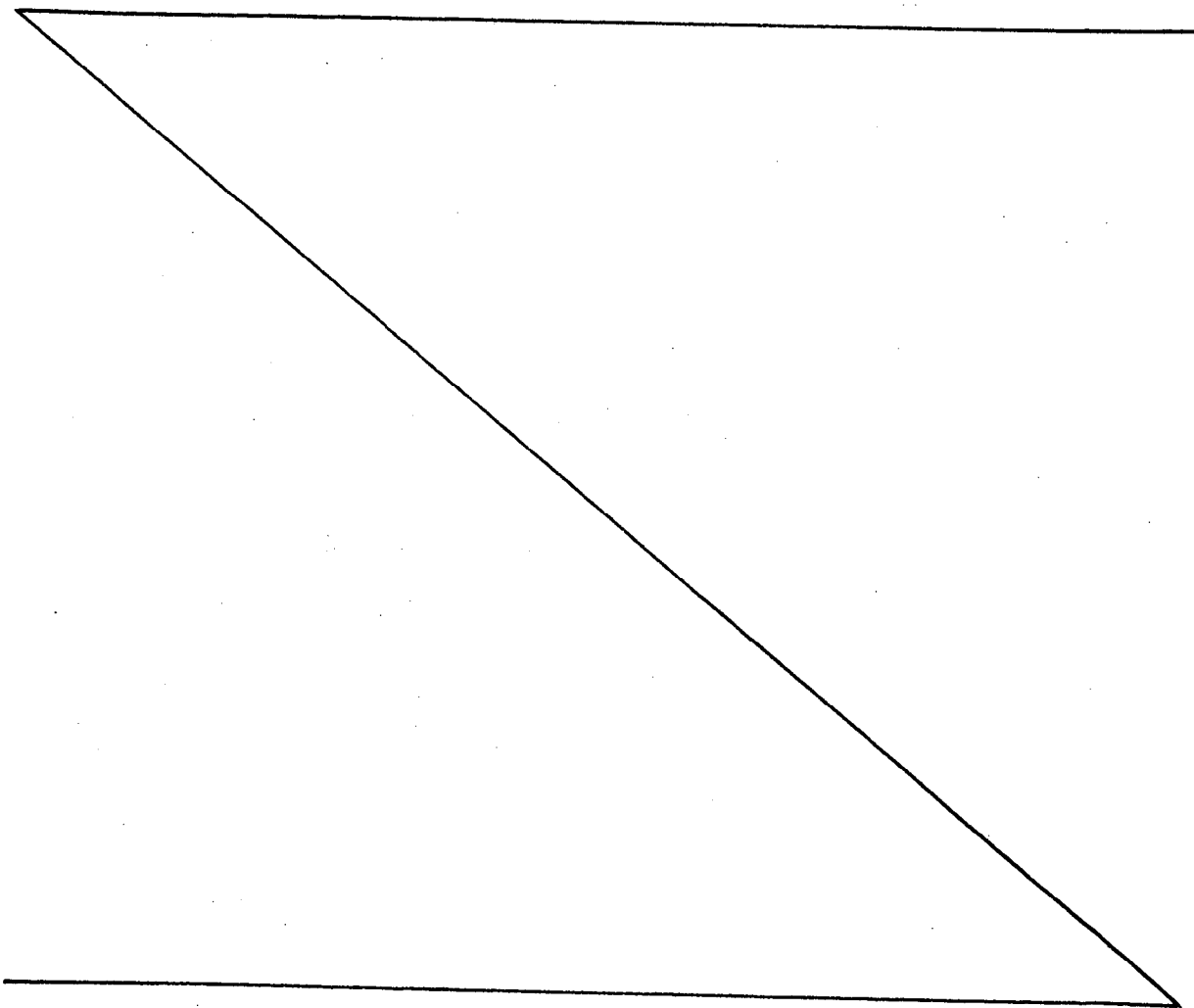
The U. S. Bureau of Reclamation read a prepared statement advising that the Bureau was asking the Federal Power Commission to delay action for five years on issuance of a Federal Power Commission license covering the power generated at Potter Valley Powerhouse.

Availability of Unappropriated Water

3. Because applicants are not seeking water in excess of the historical diversion by Pacific Gas and Electric Company under existing rights, no evidence concerning water supply and availability of Eel River water in excess of existing rights was presented at the hearing. The primary question is whether permits should be issued on Applications 18785 and 18786 in view of the uncertainty of the Pacific Gas and Electric Company power license, even though unappropriated water is not now available to the applicants. If the license is renewed by the Federal Power Commission, the diversion will continue as done historically and the water, being covered under prior existing rights, will not be subject to appropriation. The power license has been extended on an interim basis for one year, now to expire in 1973. If the request of the Bureau of Reclamation is approved to the effect that final

action be delayed for five years, a final decision as to the need for permits under Applications 18785 and 18786 could be delayed for some time.

In view of the foregoing, the Board concludes that the filing of Applications 18785 and 18786 was premature and they should be denied for lack of unappropriated water without prejudice to the refiling at some future date should Pacific Gas and Electric Company be unsuccessful in securing renewal of the power license.



ORDER

IT IS HEREBY ORDERED that Applications 18785 and 18786 be, and they are, denied because of the lack of unappropriated water.

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

Dated: October 5, 1972

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

E. F. DIBBLE
E. F. Dibble, Vice Chairman

RONALD B. ROBIE
Ronald B. Robie, Member

ROY E. DODSON
Roy E. Dodson, Member

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