

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 23136)
of Purissima Hills County Water)
District to appropriate from Adobe)
Creek in Santa Clara County.)

Decision 1420

DECISION APPROVING APPLICATION

Purissima Hills County Water District having filed Application 23136 for a permit to appropriate unappropriated water; protests having been received; the applicant and protesters 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 the Application:

1. Application 23136 is for a permit to appropriate two cubic feet per second by direct diversion, year round, for municipal purposes from Adobe Creek in Santa Clara County. The point of diversion is to be located within the NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 6, T7S, R2W, MDB&M.



Source of Water and Supply

2. Adobe Creek heads at an elevation of approximately 600 feet and courses in a general northeasterly direction approximately eight miles to enter San Francisco Bay. There is no record of the flows of Adobe Creek except for those collected by the applicant during the period from April 20 to December 31, 1970. At the time of the field investigation on August 12, 1970, the creek was nearly dry from its head to a point a few hundred feet above the applicant's point of diversion. The flow at the applicant's point of diversion was 139 gallons per minute (gpm) and it was approximately 85 gpm at the protestant Lave's point of diversion approximately one mile downstream. The stream bed was dry one-quarter mile below the protestant Lave's point of diversion.

Applicant's Project

3. The applicant at the present time has approximately 1,150 connections to its water distribution system which serves the town of Los Altos Hills and vicinity. By 1980 the applicant expects that the number of connections will have increased to 1,800 and will ultimately reach 2,047. These increases will require an average daily supply of 1.14 million gallons by 1980 and 1.28 million gallons ultimately. The water covered by Application 23136 will be used to supplement the applicant's supply from the City of San Francisco's Hetch Hetchy Project.

The applicant proposes to divert the surface flow of Adobe Creek by pumping at an offset sump which is designated as the point of diversion in Application 23136. Also, it has drilled four shallow wells in the immediate vicinity of the sump. Water will be pumped from the wells when the streamflow falls below 140 gpm.



Protestants

4. Protestant Roy E. Lave, Jr., holds License 5977 (Application 17575) authorizing diversion of 3,000 gallons per day from Adobe Creek from April 1 to December 1 of each year for irrigation use on approximately seven-tenths acre of land. He alleges that approval of Application 23136 will interfere with this use and will result in an adverse effect upon the ecology of the area, particularly by creating a breeding ground for mosquitos and diminishing its scenic qualities.

Robert E. and Mary R. Stutz pump from the underflow of Adobe Creek under claim of riparian right to a maximum of 5,000 gallons per day, which use usually occurs during the month of July. They are apprehensive of any diversion by the district from its wells which are 150 feet from theirs.

Board's Jurisdiction Over Applicant's Wells

5. The applicant is of the opinion that its wells do not draw upon the underflow of Adobe Creek and are not within the jurisdiction of the Board. Therefore it has not applied for a permit for the wells. However, on September 24, 1970, an investigation of the applicant's project was made by a geologist on the Board's staff. He concluded that the applicant's wells will extract water from the underflow of Adobe Creek and that there is a direct hydraulic continuity through basal stream gravels between the applicant's wells and those of Mr. and Mrs. Stutz. Any diversion of water from the wells without a permit from this Board will be considered an illegal diversion and subject to being enjoined.



Protection of Protestant's Rights

6. So long as a visible surface flow exists in Adobe Creek at applicant's point of diversion, the underlying gravels will be saturated, which will assure a supply of water at the Stutz well and surface flow downstream for the protestant Lave. Any permit issued pursuant to Application 23136 should contain a term requiring the permittee to bypass a sufficient quantity of water to maintain a surface flow past the point of diversion.

7. Unappropriated water is available to supply the applicant, 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.

8. The intended use is beneficial.

Water Quality

9. The San Francisco Bay Regional Water Quality Control Board has recommended that any permit issued pursuant to Application 23136 should contain a term stating that any water appropriated under the permit and used for municipal purposes shall be treated to a quality specified by the Santa Clara County Health Department. The Santa Clara County Health Department has concurred in this recommendation. Such a term is unnecessary as this will be required of the applicant notwithstanding a specific provision to that effect in the permit.

From the foregoing findings, the Board concludes that Application 23136 should be approved 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: Application 23136 and all relevant information on file therewith, particularly the reports of field investigations made August 12, 1970 and September 28, 1970.

ORDER

IT IS HEREBY ORDERED that Application 23136 be, and it is approved, 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 2.0 cubic feet per second to be diverted from January 1 to December 31 of each year, subject to the requirement that the permittee shall bypass a sufficient quantity of water to maintain a visible surface flow past the point of diversion.

The total amount diverted under this permit shall not exceed 1,100 acre-feet per annum.

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

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

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

5. 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.



Permittee shall take all reasonable steps necessary to minimize waste of water, and may be required to implement such programs as (1) reusing or reclaiming the water allocated; (2) restricting diversions so as to eliminate tailwater or to reduce return flow; (3) suppressing evaporation losses from water surfaces; (4) controlling phreatophytic growth; and (5) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. At any time after notice to affected parties and opportunity for hearing, the Board may impose specific requirements over and above those contained in this permit, with a view to meeting the reasonable water requirements of permittee without unreasonable draft on the source.

6. 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.



7. 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.

8. No diversion shall be made under this permit until the permittee has filed an application to appropriate from its four wells in the immediate vicinity of the point of diversion described in the permit.

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

Dated: March 1, 1973

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

RONALD B. ROBIE
Ronald B. Robie, Vice Chairman

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

ROY E. DODSON
Roy E. Dodson, Member

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

