

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 23976)
of Martin C. and Martha K. Brown to)
Appropriate from Diablo Canyon and) Decision 1471
Three Unnamed Streams in Santa Cruz)
County.)

DECISION APPROVING APPLICATION IN PART

BY THE BOARD:

Martin C. and Martha K. Brown having filed Application 23976 for a permit to appropriate unappropriated water; protests having been received; the applicants and protestants 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 23976 is for a permit to appropriate, by storage, a total of 10 acre-feet per annum (afa), from Diablo Canyon and three unnamed tributaries to Shingle Mill Gulch, to be collected from November 1 of each year to June 1 of the succeeding year for irrigation, stockwatering, recreational and fire protection purposes in Santa Cruz County.

The points of diversion are to be located within the NW $\frac{1}{4}$, the SW $\frac{1}{4}$, and the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$, Section 24, T10S, R1E, MDB&M.

The maximum rate of diversion to offstream storage will be 0.2 cubic foot per second (cfs).

Source of Water and Water Supply

2. Diablo Canyon and the three unnamed streams covered by Application 23976 are in the Santa Cruz mountains. Diablo Canyon originates at an elevation of approximately 2,600 feet and the three unnamed streams originate at an elevation of approximately 1,320 feet. Diablo Canyon flows approximately 2 miles from its point of origin to join Corralitos Creek. The three unnamed streams flow in parallel courses approximately one-quarter mile from their points of origin to join Shingle Mill Gulch. Shingle Mill Gulch is tributary to Corralitos Creek.

3. On August 23, 1972, the time of the field investigation, Diablo Canyon was dry and the three unnamed streams, which are interconnected by reservoir overflow ditches, were producing a total flow of approximately 5 gallons per minute (gpm).

Records of a U. S. Gaging Station on Corralitos Creek approximately one-half mile below the applicants show an average annual discharge of 6,810 af for a 13-year period. Most of this flow occurs during the months of November through June.

Applicants' Project

4. The applicants have constructed three reservoirs and at the time of the field investigation they were in the process of constructing a fourth. Two of the constructed reservoirs have a capacity of approximately one-half af each, and the third has a capacity of approximately 4 af. These reservoirs are already covered by

License 10469 (Application 23626) and, as to them, the only effect of the approval of Application 23976 would be to increase the maximum rate of diversion to offstream storage from 0.1 cfs to 0.2 cfs and to add the months of April and May to the authorized diversion season. The reservoir to be constructed will have a capacity of approximately 5 af and will receive water from Diablo Canyon by pipeline. Water from Diablo Canyon is also piped to the larger of the existing reservoirs. Water for the two smaller existing reservoirs comes from the unnamed streams. Water stored in the reservoirs will be used for the irrigation of 16 acres of orchard and 12 acres of pasture and for stockwatering and fishing.

Protests

5. Protestant City of Watsonville, hereinafter referred to as "City", diverts from Corralitos Creek approximately 3 miles downstream from the confluence of Diablo Canyon and Corralitos Creek. It claims a pre-1914 right to the use of 500 miner's inches of water from the creek. The capacity of the City's diversion works is 3.9 cfs and its maximum use has been 3.7 cfs.

6. Protestant Department of Fish and Game and applicants have agreed to the dismissal of the Department's protest provided any permit issued pursuant to Application 23976 contains the following condition:

"For the protection of fishlife, no diversion shall be made during the month of May at any time when the sum of the flow of Corralitos Creek at the U.S.G.S. gaging station near Corralitos and the diversion of City of Watsonville made upstream from that point is less than four cubic feet per second."

The proposed term is necessary for the protection and enhancement of fishlife in Corralitos Creek and should be included in any permit issued pursuant to Application 23976.

Environmental Considerations

7. All environmental reviews required in compliance with the California Environmental Quality Act of 1970 have been completed.

Existence of Unappropriated Water

8. The records of a USGS gaging station on Corralitos Creek, "near Corralitos", for the period October 1957 to September 1972, show that there has been a flow of at least 0.2 cfs at the gaging station, which is below the protestant City of Watsonville, during the months of December through April at least 90 percent of the time. Water is available to the applicants during these months. The applicants should be permitted to divert during the month of May also as the proposed term to protect fishlife would protect the City during that month in years of low flow. There is not sufficient flow in Corralitos Creek in excess of the City's needs under its prior rights during the month of November to justify the approval of diversions during that month.

9. Unappropriated water is available to supply the applicants, 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.

10. The intended use is beneficial.

From the foregoing findings, the Board concludes that Application 23976 should be approved in part and that a permit should be issued to the applicants 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 23976 and all relevant information on file therewith, particularly the report of field investigation made August 23, 1972.

ORDER

IT IS HEREBY ORDERED that Application 23976 be approved in part and that a permit be issued to the applicants 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 a total of 10 acre-feet per annum (afa) by storage to be collected from December 1 of each year to May 31 of the succeeding year as follows: 5 afa from Diablo Canyon, 4 afa from either Diablo Canyon or an unnamed stream tributary to Shingle Mill Gulch and 0.5 afa each from the other two unnamed streams tributary to Shingle Mill Gulch.

The maximum rate of diversion to offstream storage from Diablo Canyon under License 10469 and this permit shall not exceed 0.2 cubic foot 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. The total quantity of water diverted under this permit together with that diverted under License 10469 shall not exceed 10 afa.

The maximum rate of diversion from Diablo Canyon to offstream storage during November shall not exceed 0.1 cubic foot per second, as specified in License 10469.

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

4. For the protection of fishlife, no diversion shall be made during the month of May at any time when the sum of the flow of Corralitos Creek at the U.S.G.S. gaging station "near Corralitos" and the diversion of City of Watsonville made upstream from that point is less than four cubic feet per second.

5. Said construction work shall be completed on or before December 1, 1977.

6. Complete application of the water to the proposed use shall be made on or before December 1, 1979.

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 and under any license issued pursuant thereto, 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.

This continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to minimizing waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement such programs as (1) reusing or reclaiming the water allocated; (2) restricting diversions so as to eliminate

agricultural 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. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

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.

Dated: June 16, 1977

ABSENT

John E. Bryson, Chairman

/s/ W. DON MAUGHAN

W. Don Maughan, Vice Chairman

/s/ W. W. ADAMS

W. W. Adams, Member

Jean Auer
Jean Auer, Member