during the same period, from Woodhams Creek, Milldego Creek, and an unnamed basin tributary to an unnamed stream, thence Woodhams Creek, in San Mateo County. The appropriation is for domestic, fire protection and recreational uses.

4. Findings of an investigation made by the Board's staff in 1967 determined that permittee's Granny Flats Reservoir has a capacity of 19 acre-feet and that permittee had been exceeding its entitlement of water and diversion season. In order to legitimize its existing use insofar as it exceeded the entitlement under License 10511, and to obtain rights sufficient to meet future demands, permittee filed Application 24240 on November 6, 1972.

5. Application 24240 seeks a permit to appropriate 0.1 cfs by direct diversion from Mindego Creek from June 1 to October 1 of each year, and to divert to storage 30 afa from Mindego Creek and an unnamed stream tributary to Woodhams Creek, to be collected year round. Permittee proposes to collect a portion of this water to its existing Granny Flats Reservoir, built pursuant to Permit 15846 (License 10511, discussed above). The remaining portion would be stored in a new reservoir to be constructed adjacent to Granny Flats.

6. Several protests to Application 24240 were filed by downstream users alleging potential injury to prior vested rights. A protest was also filed by the California Department of Fish and Game (DFG) alleging potential injury to fishery resources. The parties stipulated to proceedings in lieu of hearing. The Board's Engineering Staff Analysis of Record states that no water is available for permittee for direct summer diversion, but that water is available for diversion to storage during the season of November 1 of each year to May 31 of the succeeding year. The Staff Analysis recommends that the rights of downstream users and the concerns of DFG would be satisfied by including as a permit term that a minimum flow of 1.0 cfs must be bypassed at permittee's proposed point of diversion.

7. In April 1978, the Board learned that the foundation had failed in permittee's new dam, and that the dam would have to be relocated. This occurred before the Board had reached a decision whether or not to issue a permit on Application 24240. Permittee now contemplates constructing two or three reservoirs to replace the one that failed. Because of the anticipated changes in permittee's project, no further Board action has been taken on Application 24240

8. Application 25758 for the instant temporary urgency permit was filed to enable permittee to store water in one of its newly completed replacement reservoirs. According to Mr. Eric Miller, President of the Cuesta La Honda Guild, permittee's current available water supply is inadequate to meet its needs. Mr. Miller represents that even with the water stored pursuant to the instant temporary permit, permittee's supply would barely match supplies available during the drought of 1977. Because of the severe water shortage, permittee has instituted a rationing program whereby those households using less than 550 cubic feet per day will receive water service free of charge; those using between 550 - 1,000 cubic feet per day will be charged one cent per cubic foot; those using between 1,000 and 2,000 cubic feet per day will be charged a penalty of five cents per cubic foot; and those using more than 2,000 cubic feet per day will have their service terminated.

Existence of Unappropriated Water

9. Above-average precipitation in the San Gregorio Creek watershed this water year has produced above-average stream flows. During a field investigation by staff on July 5, 1978, streamflow measurements were taken at the Mindego Creek point of diversion with a meter. About one cfs was measured. About one cfs was also measured at Mindego Creek just above the confluence with Alpine Creek. Another measurement was taken at the United States Geological Survey gaging station on San Gregorio Creek at the Stage Road Bridge, which is located about one and a half miles from the ocean. Approximately seven cfs were present. These measurements indicate that diversions by permittee at a rate of 0.2 cfs might have a significant impact on water users or fishlife close to the point of diversion, but probably would not have a significant impact on users of fishlife close to the United States Geological Survey gaging station.

Effect of the Proposed Diversion on Lawful Users of Water and the Rights of Downstream Users

10. Objections to Application 25758 have been received. One objection, dated June 15, 1978, and submitted by Thomas B. Zalewski, and another objection, dated June 20, 1978, and submitted by Helene F. Bolls, allege that permittee's project would reduce the water supply needed to irrigate objectors' crops. Another objection, undated but received by the Division of Water Rights on July 3, 1978, was submitted by several ranchers along San Gregorio Creek. They allege that because of the low water level at this time of year, permittee's project would cause these objectors severe losses. No objection dismissal terms were offered for any of these objections. (An objection was also received from the DFG, which will be discussed below.)

11. As stated in Paragraph 6 above, several protests to Application 24240 have been filed by downstream users and the DFG. Many objectors to the instant temporary urgency permit were protestants to Application 24240; the basis of the objections/protests are the same. The Engineering Staff Analysis of Record for Application 24240 states that a bypass requirement of 1.0 cfs would satisfy the rights and concerns of protestants. While the period for collection to storage under Temporary Permit 17398 is outside the season of diversion contemplated in the Staff Analysis for Application 24240, a 1.0 cfs bypass requirement at the Mindego Creek point of diversion would still serve to protect downstream vested rights. Therefore, Temporary Permit 17398 includes special condition 9, which requires that at least 1.0 cfs be bypassed at the point of diversion.

12. In addition to the bypass requirement of special condition 9, special condition 10 directs that a minimum of 1.0 cfs be bypassed at the United States Geological Survey gaging station on San Gregorio Creek for the further protection of downstream users. Special condition 11 requires that streamflows at both bypass points be measured daily and at the same time each day. Special condition 12 requires permittee to install a rectangular or triangular weir to measure the flows at the point of diversion. These terms should provide adequate safeguards to the rights of downstream users.

Permittee has an Urgent and Temporary Need to Appropriate Water

13. On the basis of the foregoing, the Board finds that permittee has an urgent and temporary need to appropriate water under the provisions of Permit 17398.

Effect of the Proposed Diversion on Fish, Wildlife and Other Instream Beneficial Uses

14. The DFG filed an objection to Application 25758, dated June 22, 1978. The objection alleges that Mindego Creek supports important steelhead trout and silver salmon resources; that permittee's project could adversely affect survival of juvenile salmonids using Mindego and Alpine Creeks as nursery habitat; and that these surface waters support other aquatic animals, wildlife species, and riparian vegetation. The objection includes dismissal terms, which include a 1.0 cfs bypass requirement, prohibition of diversion until permittee incorporates measures necessary to protect fishlife into its plans and construction to the satisfaction of the DFG, and a requirement that permittee install a flow measuring device. These objection dismissal terms have been incorporated into Temporary Permit 17398 as special conditions 9 through 13. The Board consulted the DFG, and determined that with the inclusion of special conditions 9 through 13, permittee's diversions would not have an unreasonable effect on fish, wildlife and other instream beneficial uses.

Compliance with the California Environmental Quality Act

15. In accordance with Title 14, California Administrative Code, §15071(c) and Title 23, California Administrative Code, §2713(c), the Board has determined that permittee's project is exempt from the provisions of the California Environmental Quality Act (Public Resources Code §21000 et seq.). The project is exempt because it is a specific action necessary to prevent or mitigate an emergency arising from the water-short condition of permittee, described in Paragraph 8 above. On July 11, 1978, the Board filed a Notice of Exemption with the Secretary of the Resources Agency for circulation and review.

Action by Board Vice-Chairman Maughan

16. On July 10, 1978, staff explained the foregoing situation to Board Vice Chairman Maughan and recommended approval of the attached temporary permit. Staff also recommended the inclusion of specially drafted permit conditions 9 through 13. Board Vice-Chairman Maughan concurred with the staff recommendation and on July 10, 1978, he authorized the issuance of a temporary permit. On the same date, Temporary Permit 17398 was issued.

NOW, THEREFORE, IT IS ORDERED:

That the Board, upon review of the record, validates the issuance of Temporary Permit 17398.

Dated: July 20, 1978

WE CONCUR:

W. Don Maughan, Vice-Chairman

John E. Bryson, Chairman

W. W. Adams, Member

William J. Miller, Member

Dated: 8/8/78

Application to appropriate water from

☐ The application has been accepted and assigned number [illegible].

☐ The application cannot be accepted for filing until the minimum filing fee of $10 is received. If the fee is not received within 30 days, the application will be returned. Please see fee schedule below for the balance due.

☐ The application is returned herewith because the minimum filing fee of $10 was not received.

☐ Applicant, as a public agency, will in most cases be lead agency for preparation of environmental documents.

FEE SCHEDULE

For each cubic foot per second (cfs) or fractional cfs of direct diversion:

from 0 to 100 cfs	____cfs @ $4.00 each	$____
over 100 to 500 cfs	____cfs @ $2.00 each	____
over 500 to 2,000 cfs	____cfs @ $1.00 each	____
over 2,000 cfs	____cfs @ $0.25 each	____

For each acre-foot per annum (afa) or fractional afa of storage:

from 0 to 1,000 afa	6 afa @ $0.05 each	$ .30
over 1,000 to 5,000 afa	____afa @ $0.02 each	____
over 5,000 to 100,000 afa	____afa @ $0.01 each	____
over 100,000 afa	____afa @ $0.002 each	____
	Total Filing Fee ($10 minimum)	$ 10.00
	Filing Fee Submitted	10.00
	Balance Due	$ 0

Any balance is now due and payable. State law requires that this application be cancelled if the balance is not received within 30 calendar days of the date of this notice.

R. L. Rosenberger

R. L. Rosenberger, Chief
Division of Water Rights

SWRCB 5
(3/77)