



Sierra Pacific Industries

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December 16, 2005

State Water Resource Control Board
Division of Water Rights
C/O Katherine Mrowka
P.O. Box 2000
Sacramento, CA 95812-2000

26306 KDM
2005 DEC 19 AM 11:55
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS
SACRAMENTO

Dear Ms. Mrowka:

Time Extension Petitions on Permits 19164 and 19165
(Applications 26306 and 26307) Shasta River in Siskiyou County

In answer to your letter received on November 21, 2005, I have the following comments:

Application for these Permits were submitted on April 21, 1980 by Shasta Springs Cattle Company by Gary Gragnani.

The Permits were finally approved with conditions of having a 1.0 cf per second bypass installed at the diversion points in 1983.

All down stream users withdrew their protests over the concern of potentially losing their adjudicated rights from the river. They were assured that the permits would in no way affect their prior rights. The Department of Fish & Game withdrew their protest at the same time. This was in 1983.

These permits have been in place since that time and the excess water has been used, when available, for beneficial use since that time. Those records have been submitted to the Board since that time but perhaps not in a form that the Division could easily determine when the Permits were used. That problem is not something the Permittee has control over. The Watermaster is the person responsible for reporting the water delivery, not the Permittee, and he has done so.

The measuring devices to which you refer in paragraph two of your letter are for the 1.0 cf per/sec. bypass to be installed at the diversion points. In August of 2000 we received a notice from the Division that the bypass devices currently in place did not meet the requirements of the Permits and that they needed to be replaced. This letter was from Mr. Wayne Smith WRC

Engineer for the Division. At that time he met with the ranch manager on site and told him what was necessary to meet the requirements. In October 2000 Mr. Smith responded to a letter and pictures sent by Pete Scala, ranch manager and Keith Dix, Watermaster, that the devices to be installed met the requirement he requested.

He also sent forms for extending the permits. At that time we filled out the forms and mailed them, along with the fees requested to your office. Also, at that time we agreed to revoke the third permit that was in place, Permit #19163. We sent a letter, with pictures, showing the new diversions that had been installed on February 7, 2001. We received a response on May 2, 2001 stating that he had made an additional field visit to the site, and that Mr. Smith had revised his requirements due to an error he had made in his calculations. He requested that the bypass be changed to meet this new requirement.

Per Mr. Smith's specifications, the adjustments were made and the current measuring devices on these permits meet the criteria requested by the Division. On June 25, 2001 we received confirmation that the forms and fees had been received and notices had been sent to interested parties. At that time the protests were received from the Fish & Game, which brings us to the present time.

There are current records in the Division's office showing the use of these permits in 2003, which clearly states, "no stored water was used in April and May", but water was diverted at that time. The 2004 and 2005 reports will also show the water being used. This meets the requirement of beneficial use of the water per the permit for a three-year period. We have done everything the Division has requested. The information sent to the Division earlier this year attempted to show the available water under these permits and show when the water would likely have been used. Your Division has the records showing that actual use and the local water master has confirmed that use during the past three years, and I believe in the previous years. We are not familiar with the "2002 compliance report", to which you refer, that documents that no water was available in 1999, 2000, etc.

As a matter of fact, several of the comments in your November 2005 letter puzzled us and indicate a misunderstanding of the information presented by us in our February letter to you. We agree that the delivery of water by the DWR watermaster is a complex applied science that entails a high degree of professional judgment rooted in site-specific experience. Satisfactorily responding to your problems with our water availability analysis would be more efficient with a meeting, which we would suggest include the watermaster, rather than continuing a written debate. We request such a meeting before writing an itemized response to the "problems" you noted.

The remainder of the issues concern the Protest filed by Fish & Game. They are requesting better fish screens and reliable fish passage at the lower diversion. We have agreed to place the newer fish screens at the diversions and have agreed to work with them to improve fish passage at the lower diversion. These items will be required for these two sites regardless of the issuance of the licenses for these permits. The current amount of water flowing down the river will be within the same range of variability as the amount that has been flowing for the last 20 years and there is no

data to correlate the diversion of this excess water with a significant negative impact on the fisheries. The issuance of licenses for this water will not change the situation.

We have met on the site at least twice with personnel from the Department of Fish & Game to resolve their concerns. The first meeting was attended by numerous people including a DFG fisheries biologist who inspected the Shasta River's current condition as well as the riparian areas adjacent to the river. At that time his comments were very positive concerning its present condition. There has been no evidence shown that the use of these two permits for the last 20 years has had any affect on the fish populations within the river. Their current protest conditions are the same as the 1983 protest conditions, which were for fish screens and a bypass. They dismissed their protest in 1983 with the understanding that those items would be constructed. Those items are in place at this time with more work to be done on the fish screens to meet their current requirements.

We have been working closely with the Division for the last five years doing everything you have directed us to do and feel that all the requirements for the granting of a license have been met. We asked for the extensions in 2000 and have complied with your requests since that time. We are no longer asking for an extension but are requesting the issuance of a license for each permit.

As I mentioned in our phone call last week, we would prefer to meet with you and Division staff to go over these items and try to reach a mutual understanding on all these points. We would like to involve the Department of Water Resources in this meeting along with anyone else you feel is appropriate.

Very truly yours,

SIERRA PACIFIC INDUSTRIES

A handwritten signature in black ink, appearing to read "Jack G. Frost", written in a cursive style.

Jack G. Frost
Lands Forester

JGF/dz