

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 20554
of Howard W. and Pauline H. Rathbun
to Appropriate from Corralitos Creek
in Santa Cruz County

Decision D 1144

ADOPTED AUG 26 1963

DECISION APPROVING APPLICATION

Howard W. and Pauline H. Rathbun having filed Application 20554 for a permit to appropriate unappropriated water; a protest 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 Rights Board pursuant to said stipulation; the Board, having considered all available information and now being fully advised in the premises, finds as follows:

1. Application 20554 is for a permit to appropriate 0.039 cubic foot per second (cfs) by direct diversion year-round for irrigation and domestic purposes from Corralitos Creek in Santa Cruz County. The point of diversion is to be located within the SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 26, T10S, R1E, MDB&M.

2. The applicants propose to pump from the creek at a point approximately 3.5 miles downstream from the headwater of the creek and approximately 1.5 miles upstream from the diversion of the City of Watsonville. The water will be first

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diverted to regulatory storage tanks and from there used for the irrigation of approximately 3 acres of nursery stock and for domestic use at one home.

3. A protest was filed by the California Department of Fish and Game which asserts that Corralitos Creek is one of the most important steelhead spawning and nursery tributaries of the Pajaro drainage basin and that the creek is also planted with catchable trout. The Department estimates that a minimum flow of 10 cfs in the creek is needed for steelhead spawning activity during the winter months and a minimum flow of 2 cfs is needed during the summer and fall months to support the steelhead run. It asserts that these flows are also essential to produce food and shelter necessary for the survival of young steelheads and requests that provision should be made for their maintenance in any permit issued pursuant to Application 20554.

4. The records of a USGS Gaging Station "near Corralitos" located on Corralitos Creek just below the diversion dam of the City of Watsonville and a gaging station located approximately 5 miles further downstream show that for the period of record (1946 through 1961, except for 1951 through 1954 for which period there is no record) a flow of 10 cfs has been infrequently available in the stream during the winter months and flow during the summer months has been less than 2 cfs in all months except one.

5. As the amounts of water that the Department of Fish and Game has determined to be necessary for the maintenance

of Corralitos Creek as a fishery resource have been historically available only during a very small percentage of the time and as the quantity of water which the applicant seeks to appropriate is small in relation to what is considered essential to sustain the fishlife, the approval of the application should not result in any substantial harm to the creek as a fishery resource.

6. The City of Watsonville, under claim of pre-1914 appropriative rights, diverts at least 3.9 cfs from Corralitos Creek during its high demand period which commences as early as the month of March. It diverts practically the entire flow of the creek during the period from June 1 through October 31. During this season a small flow of approximately 0.3 cfs has passed the U. S. Gaging Station below the City of Watsonville's diversion dam. This flow may contribute to certain wells located below the dam adjacent to the creek, two of which are operated by the City of Watsonville. As this flow is largely seepage and uncontrolled overflow from the City's diversion dam, the small diversion proposed by the applicant will not measurably diminish the supply to lower users. No protest to Application 20554 was filed by either the City of Watsonville or other users.

7. There is unappropriated water 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.

8. As the applicants claim a riparian right to water from Corralitos Creek, the permit should contain a condition stating that water diverted under the permit shall not be in

addition to such water, if any, as permittee may be entitled to use from the same source on the place of use authorized by this permit by virtue of a riparian or other right.

9. The intended use is beneficial.

From the foregoing findings, the Board concludes that Application 20554 should be approved and that a permit should be issued to the applicants subject to the limitations and conditions set forth in the following Order.

The records, documents, and other data relied upon in determining the matter are: Application 20554 and all relevant information on file therewith, particularly the report of the field investigation made August 2, 1962, and an addendum to report dated December 11, 1962; State Water Resources Board, Bulletin No. 5, Santa Cruz-Monterey Counties Investigation, dated August 1953, with particular reference to streamflow records of the flows in Corralitos Creek at Corralitos for the period October 1946 through September 1950; USGS Water Supply Papers, Part 11, Pacific Slope Basins in California; USGS Loma Prieta, Watsonville West, and Watsonville East 7.5-minute quadrangles dated 1955, 1954, and 1955, respectively.

ORDER

IT IS HEREBY ORDERED that Application 20554 be, and the same is, approved and that a permit be issued to the applicants subject to vested rights and to the following limitations and conditions:

1. The amount of water appropriated shall be limited to the amount which can be beneficially used and shall not exceed 0.039 cubic foot per second by direct diversion to be diverted year-round. The equivalent of such continuous flow allowance for any thirty-day period may be diverted in a shorter time if there be no interference with vested rights.

2. The maximum amount herein stated may be reduced in the license if investigation warrants.

3. Actual construction work shall begin on or before June 1, 1964, and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked.

4. Construction work shall be completed on or before December 1, 1966.

5. Complete application of the water to the proposed use shall be made on or before December 1, 1967.

6. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the State Water Rights Board until license is issued.

7. 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 Rights 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.

8. Permittee shall allow representatives of the State Water Rights 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.

9. Upon a judicial determination that the place of use under this permit or a portion thereof is entitled to the use of water by riparian right, the right so determined and the right acquired under this permit shall not result in a combined right to the use of water in excess of that which could be claimed under the larger of the two rights.

Adopted as the decision and order of the State Water Rights Board at a meeting duly called and held at Sacramento, California, on the _____ day of _____, 1963.

Kent Silverthorne, Chairman

Ralph J. McGill, Member

W. A. Alexander, Member