

north 4,000 feet and west 700 feet from the SE corner of Section 19, T9S, R1W, MDB&M, in the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of said section, according to a petition for change in point of diversion filed by the applicant.

Applicant's Project

2. The project planned by the applicant will involve the pumping of water from a sump in Miller Creek to a tank on a nearby ridge, a vertical distance of about 800 feet. Initially, about 40 homes will be served. The applicant has requested that any permit be issued to the Mountain Charlie Water Works, Inc., which he has recently formed.

Protestant's Use of Water

3. Protestant City of Santa Cruz has a right to divert 12.2 cfs from January 1 to December 31 of each year from the San Lorenzo River under Licenses 1553 and 7200 issued upon Applications 4017 and 5215. The city also obtains water from Newell Creek and from various other streams and springs. However, since the waters of the San Lorenzo River require a higher degree of treatment than water from other sources, the city diverts from the San Lorenzo River only when necessary.

A U.S.G.S. gaging station is located on the San Lorenzo River approximately four miles upstream from the city's point of diversion. A comparison of flows at the gaging station and the amount of water pumped by the City of Santa Cruz for the period 1958-1967 shows that there was only one month when the city pumped an amount greater than the minimum flow recorded at the gaging station. In all other months the minimum flow was

in excess of the amount pumped by the city. Also, in recent years the city has pumped less water from the San Lorenzo River than in previous years.

Proposed Change in Point of Diversion

4. The change proposed in applicant's petition for change in point of diversion to a point approximately one-half mile downstream from the original point of diversion will not operate to the injury of any other lawful user of water and should be approved.

Availability of Unappropriated Water

5. 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.

6. The intended use is beneficial.

From the foregoing findings, the Board concludes that Application 23732 should be amended in accordance with the petition for change in point of diversion and 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: Applications 22905 and 23732 and all relevant information on file therewith, particularly the reports of field investigations made January 29, 1967 and August 23, 1971.

ORDER

IT IS HEREBY ORDERED that Application 23732 be amended in accordance with applicant's petition for change in point of diversion and, as amended, that it 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 0.025 cubic foot per second by direct diversion to be diverted from January 1 to December 31 of each year. The maximum amount diverted under this permit shall not exceed 14 acre-feet per year.
2. The maximum quantity herein stated may be reduced in the license if investigation warrants.
3. Actual construction work shall begin on or before nine months from date of permit and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted this permit may be revoked.
4. Said construction work shall be completed on or before December 1, 1974.
5. Complete application of the water to the proposed use shall be made on or before December 1, 1975.
6. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control 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 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.

8. 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.

9. 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.

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

Dated: March 2, 1972

E. F. DIBBLE
E. F. Dibble, Acting Chairman

NORMAN B. HUME
Norman B. Hume, Member

RONALD B. ROBIE
Ronald B. Robie, Member

W. W. ADAMS
W. W. Adams, Member