

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 20826)
of South Santa Clara Valley Water)
Conservation District to Appropriate)
from Little Arthur Creek in Santa)
Clara County.)
_____))
Decision 1408

DECISION DENYING APPLICATION

Application 20826 was filed on June 21, 1962 by the City of Gilroy. On June 24, 1963 the application was assigned to the South Santa Clara Valley Water Conservation District. A protest to Application 20826 was received and the State Water Rights Board held a hearing on the application on July 18, 1967. At that time the applicant was undecided as to the construction of a project on Little Arthur Creek in view of alternate water sources, had inadequate streamflow records and had no geologic, feasibility, or operation studies for the project (RT 25,26). It did not expect to commence construction for five to six years (RT 37). The hearing was continued for one year during which time the applicant was to obtain further information necessary to support its application.

On January 27, 1972 the hearing on Application 20826 resumed. At that time the applicant had not obtained access to its reservoir site which is on private property and was unable to drill test holes and make an examination to determine whether the geology of the area was suited to the proposed project (RT 6). No study

had been made of downstream rights to determine the existence of unappropriated water (RT 26). No study had been made to determine whether the proposed project was financially feasible (RT 31). The applicant had no definite plan for financing the project (RT 26). The applicant's plans did not coincide with the place of use and purposes of use described in Application 20826 (RT 27). The hearing was again continued to the following May in order to allow the applicant an opportunity to present further evidence and to petition for changes in purposes and place of use.

On May 24, 1972, the hearing on Application 20826 again resumed. A recent estimate of the cost of the applicant's project shows it will cost two and one-half million dollars as opposed to the seven hundred and fifty thousand dollar original estimate (RT 46). The applicant's board has not decided whether the increased costs are acceptable (RT 49). The applicant is not certain as to the size of its proposed reservoir. It may be necessary to construct a larger reservoir, which would require filing another application (RT 47). The applicant intends to finance its project by bond issue; however, no attempt will be made to issue bonds until the public sentiment is determined through various civic groups (RT 54). The applicant has no timetable for proceeding with the project or even an estimate as to when the bond issue will be on the ballot (RT 55). The applicant has not determined financial feasibility of the project and has not entered into a contract for such a study (RT 57, 61, 80). The applicant has indicated that a supply of water can be obtained from the San Luis Project to meet its needs for "quite a number of years to come" (RT 45, 46).

NOW THEREFORE, the applicant has failed to meet the requirements of diligence set forth in California Administrative Code, Title 23, Section 776¹ and it is ordered that Application 20826 be denied.

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

Dated: January 4, 1973

ABSENT

W. W. Adams, Chairman

RONALD B. ROBIE

Ronald B. Robie, Vice Chairman

E. F. DIBBLE

E. F. Dibble, Member

ROY E. DODSON

Roy E. Dodson, Member

MRS. CARL H. (JEAN) AUER

Mrs. Carl H. (Jean) Auer, Member

¹ 776. Reasonable Promptness Required. An application will be denied when it appears after hearing that (a) the applicant does not intend to initiate construction of the works required for the contemplated use of water within a reasonable time and thereafter diligently prosecute the construction and use of water to completion, or (b) the applicant will not be able to proceed within a reasonable time, either because of absence of a feasible plan, lack of the required financial resources, or other cause.