

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Temporary  
Permit 20310 (Application 29434)  
of  
UNITED STATES BUREAU OF  
RECLAMATION

Permittee,

ORDER: WR 89- 6

SOURCE: Prosser Creek  
Reservoir

COUNTY: Nevada

FINDINGS AND ORDER VALIDATING

TEMPORARY PERMIT

The U.S. Bureau of Reclamation (Bureau) having filed Application 29434 for a conditional temporary urgency permit to divert and use water pursuant to Chapter 6.5 (commencing with Section 1425), Part 2, Division 2 of the Water Code; the State Water Resources Control Board (Board) having consulted with the California Department of Fish and Game (Department); Board Chairman W. Don Maughan, having reviewed available information, authorized issuance of a temporary permit; a temporary permit having been issued on March 9, 1989; the Board finds as follows:

SUBSTANCE OF THE APPLICATION

1. On March 9, 1989, the Bureau filed for a temporary permit to store 6,000 acre-feet in Prosser Creek Reservoir for Fish and Wildlife Preservation within the Truckee River/Pyramid Lake watershed. Water will be collected under the temporary permit from March 9, 1989 to April 9, 1989.

2. The Bureau holds Licensed Application 18006 to collect 30,000 acre-feet per year to storage in Prosser Creek Reservoir from April 10 to August 10 of each year. The reservoir is located on Prosser Creek approximately 4 miles north-east of the community of Truckee. Water collected under Licensed Application 18006 is for Irrigation, Domestic, Municipal, Industrial, Fish Culture, and Recreational uses.

Temporary Urgency Need of Applicant to Divert and Use Water

3. Due to drought conditions this year, storage levels are generally low in California, including those on the Truckee River system. If the current forecasts hold, 1989 will be another low water year.
4. Recent storms during the month of March have caused rainfall at a relatively high elevation in the Truckee River watershed resulting in a much earlier runoff than would normally have been expected. Fishery agencies were concerned that increased flows from the Truckee River into Pyramid Lake at this time of year would result in the attraction of spawning fish to the Truckee River. An early spawning season coupled with the potential of low flows during the normal spawning and rearing period would have had an adverse impact on the Truckee River/Pyramid Lake fishery.
5. Prosser Creek Reservoir was unable to store water due to the storage period permitted in the existing license. During the recent storms, all other facilities on the system were either storing water or engaged in operations to minimize flows into the Truckee River. Other facilities involved in

these efforts were Independence Lake, Stampede Reservoir, and Boca Reservoir on the Little Truckee River and Lake Tahoe at the Head of the Truckee River.

6. Based on the above information, the Board concludes that the Bureau has an urgent temporary need to divert and use water as authorized by Temporary Permit 20310.

Effect of the Diversion on Any Lawful User of Water

7. Application 29434 was noticed on March 9, 1989, in accordance with the Water Code. Notice was sent to all affected downstream diverters and interested parties known to the Board. The objections to the temporary permit were due by or before 5:00 p.m., March 17, 1989. Two parties responded to the notice; their response is briefly summarized below:

- (a) In a letter dated March 17, 1989, Mr. Robert S. Pelcyger, the attorney representing the Pyramid Lake Paiute Tribe of Indians, supported the Bureau's request for a temporary permit. The Tribe's support is based on the understanding with the Bureau that the additional 6,000 acre-feet of water stored in the Prosser Creek under the temporary permit will be used to provide spawning flows on the Truckee River (below Derby Dam).

- (b) The Truckee Carson Irrigation District (District) filed objection in its letter dated March 17, 1989 to the issuance of a temporary permit to the Bureau. The District represents the vested and decreed water

The Board concludes that water may be diverted and used under the temporary permit without injury to any lawful user of water.

Effects of the Diversion on Fish, Wildlife and Other Instream Uses

8. Representatives of the California Department of Fish and Game and the U.S. Fish and Wildlife Service were contacted prior to issuance of the temporary permit to the Bureau. They are supportive of the Bureau's request to store runoff during the months of March and April provided the Bureau agrees to make releases in accordance with a plan prepared jointly by these agencies.
9. The above agencies agreed that operation of the reservoir under the temporary permit will help to preserve fish and wildlife, including an endangered species in the lower Truckee River. Term 12 in the temporary permit addresses the concerns of these agencies.
10. The Board concludes that the water may be diverted and used under the temporary permit without unreasonable adverse effect upon fish, wildlife, or other instream beneficial uses.

Findings Concerning the California Environmental Quality Act

11. The project is an emergency project and a Notice of Exemption has been filed in accordance with Title 14, California Code of Regulations, Section 15307.

Public Interest

12. The Board concludes that water is available for diversion and use under Temporary Permit 20310 and that such diversion and use is in the public interest and in accordance with the constitutional policy that the water resources of the State be put to beneficial use to the fullest extent of which they are capable.

Issuance of Temporary Permit

13. Water Code Section 1425 provides for delegation of the authority to issue temporary permits. The Board has delegated this authority to each Board Member. Section 1425 further requires that when the delegated authority is exercised, the Board shall, not later than 30 days following issuance, review and validate any temporary permit issued.

14. Board staff explained the foregoing situation to Board Chairman Maughan and recommended approval of the temporary permit. Board Chairman Maughan concurred with the staff recommendation, and on March 9, 1989, authorized issuance of the temporary permit. On March 9, 1989, Walter G. Pettit, Chief of the Division of Water Rights, issued Temporary Permit 20310.

ORDER

NOW, THEREFORE, IT IS ORDERED THAT issuance of Temporary Permit 20310 to the U. S. Bureau of Reclamation is validated subject to the conditions specified in the permit and the following additional conditions:

a. Water shall not be stored under the temporary permit at any time when there is insufficient water flowing in the Truckee River at Derby Dam to allow the diversion of water into the Truckee Canal at its then available capacity.

b. Nothing in this temporary permit shall constitute an approval of or precedent for storage in Prosser Creek Reservoir of water over and above

the amounts otherwise authorized, nor approval of or precedent for future use of Prosser Creek Reservoir storage for fish and wildlife preservation in the Lower Truckee River.

CERTIFICATION

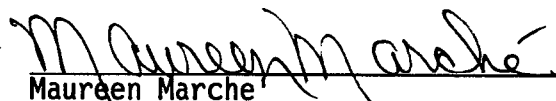
The undersigned, Administrative Assistant to the Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on April 5, 1989.

AYE: W. Don Maughan  
Darlene E. Ruiz  
Edwin H. Finster  
Eliseo M. Samaniego  
Danny Walsh

NO: None

ABSENT: None

ABSTAIN: None

  
Maureen Marche  
Administrative Assistant to the Board

