STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Permits 5881, 5882, and 7253 Issued on Applications 10211, 10216, and 11745 U. S. CORPS OF ENGINEERS et al., Permittees.	Order:	WR 78-3
	Source:	Salinas River
	County:	San Luis Obispo

DECISION AND ORDER AMENDING
BOARD ORDER DATED JUNE 1, 1972
AS AMENDED OCTOBER 5, 1972; JUNE 20, 1974 (WR 74-20);
JUNE 16, 1977 (WR 77-6); AND OCTOBER 20, 1977 (WR 77-11)

BY BOARD MEMBER ADAMS:

NATURE OF PROCEEDINGS

Introduction

1. The matter of Permits 5881, 5882 and 7253 has been before this Board on several prior occasions. The permits were issued in the 1940s. Since that time, concern for the rights of downstream users of Salinas River water has prompted the Board to impose clarifying permit terms and conditions. The subject of many of the Board proceedings in this matter has been proposed modification of these clarifying terms and conditions. This is also the subject of the present proceedings. Because of the relatively complex procedural history of this matter, it is necessary to recount in some detail the events leading to today's order.

Substance of the Permits

2. Application 10211 was filed by the United States of America (Department of the Army) on May 27, 1941, for direct diversion and storage of water from Salinas River for domestic use at Camp San Luis Obispo and municipal use of any surplus in the City of San Luis Obispo. Permit 5881 was issued on October 9, 1941, for direct diversion of 12.4 cubic feet per second (cfs) at Salinas Dam from January 1 to December 31 of each year and for storage of 45,000 acre-feet per annum (afa) in Salinas Reservoir (aka Santa Margarita Reservoir) to be collected from November 1 of each year to June 30 of the following year. The U. S. Corps of Engineers (Corps) constructed the facilities under this permit and continues to operate them through the San Luis Obispo County Flood Control and Water Conservation District.

3. Application 10216 was filed by the City of San Luis Obispo (City) on June 4, 1941, for direct diversion and storage of water from Salinas River for municipal use in and around the City of San Luis Obispo. The requested appropriation was for water not required for use by Camp San Luis Obispo under Application 10211. Permit 5882 was issued on October 9, 1941, for direct diversion of 12.4 cfs at Salinas Dam from January 1 to December 31 of each year and for storage of 45,000 afa in Salinas Reservoir to be collected from November 1 of each year to June 30 of the following year. Under terms of the permit the total amount of water to be diverted under this permit and Permit 5881 of the Corps shall not exceed 12.4 cfs by direct diversion and 45,000 afa by storage.

4. Application 11745 was filed by San Luis Obispo County Waterworks District No. 6 (County) on February 26, 1947, for direct diversion and storage of water from Salinas River for municipal use in the general area of the community of Santa Margarita. Permit 7253 was issued on January 27, 1949, for direct diversion of 1.5 cfs at Salinas Dam from January 1 to December 31 of each year and for storage of 200 afa in Salinas Reservoir to be collected from November 1 of each year to June 30 of the following year.

Past Proceedings

5. Salinas Dam and Reservoir and associated water delivery facilities were constructed by the Corps and put into operation in July of 1942. Several extensions of time to complete application of water to the proposed use were granted on the subject permits. On June 1, 1972, the Board issued its order, which, among other things, extended time to complete use of water and imposed clarifying permit terms. The following provisions of that order are central to the current proceedings:

> "1. Time to complete use of water under Permit 5881 of the U. S. Corps of Engineers and Permit 5882 of the City of San Luis Obispo is extended to December 1, 1981.
>
> "2. Permits 5881 and 5882 are amended to include the following clarifying terms and conditions for the protection of downstream prior vested rights:
>
> a. Permittee shall release water into the Salinas River channel from Salinas Reservoir in such amounts and at such times and rates as will be sufficient, together with inflow from downstream tributary sources, to supply downstream diversions of any surface flow under vested prior rights to the

extent water would be available for such diversions without the regulation of Salinas Dam and sufficient to maintain percolation of water from the stream channel as such percolation would occur without the regulation of Salinas Dam, in order that operation of Salinas Dam shall not reduce natural recharge of water into the Salinas River alluvial gravels downstream to the confluence of the Nacimiento River with the Salinas River.

This condition shall be assumed to be met during such time as there exists a visible surface flow in the Salinas River between Salinas Reservoir and the confluence of the Nacimiento River.

b. Until further order of the Board, permittee shall make or cause to be made suitable field measurements and studies and shall provide any measuring facilities necessary to determine the amount of water, timing, and rate of releases of water into the Salinas River channel below Salinas Dam required to comply with the preceding condition and shall report to the Board annually, or at such other times as the Board may require, such measurements and studies and the cumulative results.

c. The Board, either upon the request of the permittee or any party or on its own motion, may and shall, prior to the issuance of license, hear, review, and make such further and different orders as may be required concerning proper releases of water for downstream use and recharge of groundwater and concerning the measurements and studies to be conducted by or on behalf of permittee until a final determination and order can be made concerning the amounts, timing, and rates of releases of water into Salinas River in satisfaction of downstream rights.

"3. The time to complete use of water under Permit 7253 of San Luis Obispo County Water District No. 6 is extended to December 1, 1981, provided, however, a valid contract is negotiated with the Corps of Engineers for storage of water in Salinas Reservoir by July 1, 1973."

6. Pursuant to the City's petition for reconsideration of the June 1, 1972, order, the Board, on October 5, 1972, amended Paragraph 2 of that order as follows:

"a. Permittee shall release water into the Salinas River channel from Salinas Reservoir in such amounts and at such times and rates as will be sufficient, together with inflow from downstream tributary sources, to supply downstream diversions of any surface flow and groundwater extractions under prior vested rights. Until further order of this Board it will be conclusively presumed that prior vested downstream rights will be met if at all times either a visible surface flow exists in the Salinas River between the Salinas Reservoir and the confluence of the Nacimiento River or the total inflow to the Salinas Reservoir is released therefrom into the channel of the Salinas River below the Salinas Dam. The foregoing is not intended to preclude other operational criteria that will fully satisfy prior vested downstream rights.

"b. No change.

"c. The Board either upon the request of the permittee or any holder of a prior vested downstream right, or on its own motion, may and, no later than July 1, 1974, shall hear, review, and make such further and different orders as may be required concerning releases of water into the Salinas River below Salinas Dam to assure that prior vested downstream rights are satisfied and concerning the measurements and studies to be conducted by or on behalf of permittee until a final determination and order can be made concerning the amounts, timing, and rates of releases."

7. In accordance with Paragraph 2.c. of the October 5, 1972, amendment, a hearing was held on April 30, 1974 to (1) consider further the regimen of releases of water into the Salinas River below Salinas Dam (sometimes referred to herein as the "live stream concept"), as required by Paragraph 2.a. of the June 1, 1972, order, as amended on October 5, 1972; and (2) ascertain whether a contract had been negotiated between the Corps and County, as required in Paragraph 3 of the June 1, 1972, order. Because field measurements and studies, as required by Paragraph 2.b. of the June 1, 1972, order, had not been made, and

because all parties agreed, the Board issued Order WR 74-20 on June 20, 1974, extending the date for further consideration to not later than July 1, 1977.

8. On April 8, 1975, CH_2M Hill, a consultant for the Corps, completed a study on the Salinas Dam-Santa Margarita Reservoir project entitled "Water Supply Yield Study". This study was undertaken to determine the safe yield from Santa Margarita Reservoir, taking into consideration the Board's order to meet prior vested downstream rights as stated in Paragraph 2.a. of Board order of June 1, 1972, as amended October 5, 1972. Flow into and downstream of Santa Margarita Reservoir and recharge of the downstream groundwater basin were analyzed. The report recommends that in order to meet the requirements of the Board orders, the inflow to Santa Margarita Reservoir should be released at all times when there is zero flow in the reach of the Salinas River between the dam and the confluence with the Nacimiento River. The report states that the flow at the USGS gauge at Paso Robles is indicative of the flow in the Salinas River throughout this reach. The report further recommends that the effects of the suggested operating plan on the flows below the dam should be monitored in detail for a period of 3 to 5 years, in order to determine adjustments that may be necessary to more closely meet the Board's requirements.

9. The "Water Supply Yield Study" was submitted to the Board for review and comment on March 31, 1976. By letter of

May 24, 1976, to the Corps, Board staff indicated that the study did not contain sufficient justification to conclude that the flow in the Salinas River at the USGS gauge at Paso Robles is indicative of the flow in the river throughout the reach from Salinas Dam to the Nacimiento River. Recharge of the groundwater basin from Paso Robles to the Nacimiento River had not been adequately correlated with the existence of a surface flow in the river at Paso Robles. No additional information or replies to the staff's comments in this matter have been received.

10. Early in 1977, the City conducted negotiations with several interested agencies to develop criteria for the operation of Salinas Dam which would replace the "live stream concept" contained in the above-mentioned Board orders. In order to continue these negotiations, the City petitioned the Board on May 18, 1977, to extend the date for further hearing and order concerning releases of water into the Salinas River from Salinas Dam, as required by Board Order WR 74-20, from July 1, 1977, to November 1, 1977. By letter of June 13, 1977, the County, which in addition to holding Permit 7253, operates Salinas Dam and Reservoir for the Corps, joined in the request for an extension of time. Pursuant to these requests, the Board issued Order WR 77-6 dated June 16, 1977, extending the date for further hearing and order from July 1, 1977, to November 1, 1977.

Present Proceedings

11. On September 20, 1977, a public hearing was held in Sacramento on Permits 5881, 5882, and 7253. Appearances and presentations were made by the City of San Luis Obispo (Permit 5882); San Luis Obispo County Water Works District No. 6 (Permit 7253) and San Luis Obispo County Flood Control and Water Conservation District as operator of Salinas Reservoir for the Corps (Permit 5881) (one witness represented both county agencies); and the City of Paso Robles and the Atascadero Mutual Water District (one attorney represented both of these entities). A representative of the Corps was present at the hearing but did not make a presentation.

12. The purpose of the hearing was to resolve two issues. First, with reference to Permits 5881 and 5882, whether new and different orders are required concerning releases of water into the Salinas River below Salinas Dam for protection of prior vested downstream rights, and concerning measurements and studies to be conducted by or on behalf of permittees, as required by the June 1, 1972, order, as amended. Second, with reference to Permit 7253, to consider the matter of compliance with Condition 3 of the order of June 1, 1972, as amended, which required negotiation of a valid contract with the Corps by July 1, 1977.

13. The hearing record was held open until October 17, 1977, for submission of recommendations by the parties for modifying the current terms and conditions. Recommendations were received from the City, the County, and the City of Paso Robles/Atascadero

Mutual Water District. Transco Products, Inc., applicant on Application 24773 to appropriate water from a tributary of the Salinas River between Salinas Dam and the Nacimiento River, also submitted a recommendation. The City has protested this and several other applications on the basis that any new appropriators from sources within the Salinas River drainage tributary to the stated reach should also be required to contribute water for the protection of prior vested downstream rights, as the City is required to do under the June 1, 1972, order, as amended.

14. The closing of the official record of the public hearing on October 17, 1977, did not provide sufficient time to issue a further Board order in this matter by November 1, 1977, as required by Order WR 77-6 dated June 16, 1977. Consequently, Order WR 77-11 was adopted by the Board on October 20, 1977, extending the date for further order to March 1, 1978.

FINDINGS AND CONCLUSIONS

Permits 5881 and 5882

15. The "Water Supply Yield Study" prepared for the Corps represents the only attempt at compliance with Paragraph 2.b. of the June 1, 1972 order, as amended. The study is deficient; the conclusion therein that the flow in the Salinas River at the USGS gauge at Paso Robles is indicative of the flow in the river throughout the reach from Salinas Dam to the Nacimiento River is not sufficiently justified. Specifically, recharge of the

groundwater basin from Paso Robles to the Nacimiento River has not been adequately correlated with the existence of a surface flow in the river at Paso Robles. There is no indication that the stated deficiencies in the study will be corrected, or that a new study is contemplated. Therefore, the study does not provide sufficient information from which to develop alternate operating criteria for Salinas Reservoir, and such information does not appear to be forthcoming.

16. Recent attempts by local agencies to reach an agreement on alternate operating criteria for Salinas Reservoir have failed. No such criteria were presented at the hearing or in the recommendations submitted while the hearing record was held open. Nor does it appear that such criteria is forthcoming.

17. Since this Board has granted several opportunities for the development of new studies and recommendations for alternate operating criteria, and since such studies and recommendations are not imminent, there is no reason to schedule further hearings on this matter. However, no purpose is served by foreclosing the possibility of the parties reaching an acceptable agreement. Therefore, the "live stream concept" embodied in Paragraph 2 of the June 1, 1972, order, as amended, should remain in effect. In the event new studies or operating criteria are developed, the parties should be able to submit such information or proposals to the Board, and the Board may hold additional hearings on the matter.

Permit 7253

18. Permittee San Luis Obispo County Waterworks District No. 6 has failed to negotiate a valid contract with the Corps for storage of water in Salinas Reservoir by July 1, 1977, as required by Paragraph 3 of the June 1, 1972, order, as amended. According to the County, there are three reasons why this condition has not been met. First, a draft agreement was submitted to the Corps after the 1972 Board orders, but the Corps considered any such agreement to be premature until the studies required by the 1972 orders were completed. Such a study was completed in 1975 (the "Water Supply Yield Study" discussed above), at which time the County commented to the Corps concerning the study's deficiencies. The Corps has not responded to these comments, or those submitted by the Board.

19. Second, the City has a long-term "license" with the Corps for use of water from Salinas Reservoir. The Corps has not been using any water from Salinas Reservoir for many years. Consequently, the City has been using the full yield. The County now believes that it is possible to effectuate an agreement with the Corps to store water in the reservoir under Permit 7253, despite the long-term license. The City has an alternate water supply from Whale Rock Reservoir. The County believes that the

combined yields of Salinas and Whale Rock Reservoirs exceed the current needs of the City, and that the surplus could be available to the County. The amounts of such surplus could be determined on a year-by-year basis.

20. Third, the County was not certain it had the support of the project's beneficiary, the community of Santa Margarita. However, recent communication with members of the community indicates unanimous support that Permit 7253 remain in effect and that the County pursue an agreement with the Corps to store water in Salinas Reservoir.

21. While these facts do not demonstrate vigorous efforts by the County at reaching an agreement with the Corps for storage of water in Salinas Reservoir in accordance with the proviso in Paragraph 3 of the June 1, 1972, order, as amended, no purpose is served by rescinding the extension of time in that order and revoking the permit at this time. While groundwater wells have met the requirements of the community of Santa Margarita in recent years, there is evidence that such will not be the case in the near future. The Santa Margarita Ranch, which represents a substantial land holding adjacent to the community, has not irrigated with groundwater for the past ten years, but intends to do so again soon. Such irrigation could significantly draw down the water table in the vicinity of the community's wells. Further, the County's General Plan for the

Santa Margarita area allows for a 300 percent increase in population, with a resulting increase in water use. Since the water provided for in the permit could still serve a beneficial purpose, and since it does not appear that other vested rights will be injured, the extension of time to complete use of water by December 1, 1981, granted in the June 1, 1972, order, as amended, should be allowed to stand. The agreement with the Corps to store water in Salinas Reservoir should be reached by the end of the extension period, which is December 1, 1981.

22. From the foregoing findings, the Board concludes that the "live stream concept" embodied in Paragraph 2.a. of the June 1, 1972, order should remain in effect, and that any new studies or operating criteria for Salinas Reservoir developed by the parties may be submitted to the Board for appropriate action. It is further concluded, that the extension of time granted under Permit 7253 should remain in effect, and that the matter of successfully contracting with the Corps should be deferred until December 1, 1981.

ORDER

IT IS HEREBY ORDERED that Board order dated June 1, 1972, as amended October 5, 1972; June 20, 1974 (WR 74-20); June 16, 1977 (WR 77-6); and October 20, 1977 (WR 77-11), be further amended as follows:

1. Paragraph 2.b. of said order is amended to read:

"b. Permittee may make or cause to be made suitable field measurements and studies and may formulate recommendations concerning the amount of water, timing, and rate of releases of water into the Salinas River channel below Salinas Dam to aid in reaching the objectives of Paragraph 2.a. above. Such measurements, studies, and recommendations submitted to the Board will be reviewed and the Board may hear, consider, and make such further and different orders as it deems necessary concerning releases of water into the Salinas River below Salinas Dam to assure that prior vested downstream rights are satisfied."

2. Paragraph 2.c. is deleted.

3. Paragraph 3 is amended to read:

"3. The time to complete use of water under Permit 7253 of San Luis Obispo County Water Works District No. 6 is extended to December 1, 1981. Failure to negotiate a valid contract with the Corps of Engineers for storage of water in Salinas Reservoir by this date raises a presumption of lack of diligence by permittee in completing its use of water."

Dated: February 14, 1978

WE CONCUR:

/s/ W. W. ADAMS
W. W. Adams, Member

/s/ JOHN E. BRYSON
John E. Bryson, Chairman

/s/ W. DON MAUGHAN
W. Don Maughan, Vice Chairman

Winston H. Hickox
Secretary for Environmental Protection

State Water Resources Control Board

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Gray Davis
Governor

CANCELLED

PUBLIC HEARING ON
OCTOBER 12, 1999

PROPOSED REVOCATION OF PERMIT 7253 (APPLICATION 11745)
OF SAN LUIS OBISPO COUNTY WATERWORKS DISTRICT #6 (COUNTY)
SALINAS RIVER IN SAN LUIS OBISPO COUNTY

On September 30, 1999, the County informed the State Water Resources Control Board that it has decided not to proceed with presentation of evidence and has withdrawn the Notice of Intent to Appear for the hearing identified above. The County was the only party to the hearing. Accordingly, the hearing is cancelled and Permit 7253 is revoked in accordance with the Notice of Proposed Revocation (Notice) issued by the Division of Water Rights on August 14, 1992.

Questions concerning this notice should be addressed to Katherine Mrowka, staff engineer at (916) 657-1951.

Maureen Marché
Administrative Assistant to the Board

Date: OCTOBER 07 1999

Mailing List For Permit 7253

Mr. Douglas C. Bird
San Luis Obispo County Engineering Department
County Government Center
Room 207
San Luis Obispo, CA 93408

San Luis Obispo County Waterworks
District No. 6
c/o Ms. Janet K. Goldsmith
Kronick, Moskovitz, Tiedemann & Girard
400 Capitol Mall, 27th Floor
Sacramento, CA 95814-4417

Mr. Pete J. Cagliero
76362 Vineyard Canyon
San Miguel, CA 93451

SURNAME/FILES

(916) 657-1951

FAX: (916) 657-2388

In Reply Refer
to:333:KDM:11745

AUGUST 14 1992

549866 ✓

Mr. Glen Priddy
San Luis Obispo County WWD #6
Courthouse Annex Room A-101
San Luis Obispo, CA 93408

Dear Mr. Priddy:

PERMIT 7253 (APPLICATION 11745) OF SAN LUIS OBISPO COUNTY WWD #6--SALINAS RIVER IN SAN LUIS OBISPO COUNTY

Division of Water Rights (Division) staff is presently reviewing permits which authorize use of water from the Salinas Reservoir. As part of the review process, Division staff has been working with the San Luis Obispo County WWD #6 (District) to determine whether Permit 7253 (Application 11745) can be maintained. In response to Division correspondence dated March 12 and July 8, 1992, the District has submitted a Petition for Extension of Time (Petition). A brief summary of the actions which have occurred to date is provided below, followed by a recommendation regarding maintenance of the permit.

Permit 7253 was issued on January 27, 1949 for direct diversion of 1.5 cubic feet per second at Salinas Dam and storage of 200 acre-feet per annum (afa) in Salinas Reservoir. The authorized point of diversion is located on Army Corps of Engineers (Corps) property.

A June 1, 1972 State Water Resources Control Board (State Water Board) "Order Granting Extension of Time on Certain Permits, Imposing Clarifying Permit Terms and Revoking Certain Permits to Appropriate Water" states that Permit 7253 covers storage of water in Salinas Reservoir, although no water can be claimed under this permit without a contract with the Corps for the necessary storage space and for conveyance to the community through the conduit connecting Salinas Reservoir and the Cuesta Pumping Plant. The Order states that a limited extension of time should be granted for Permit 7253 to afford the parties an opportunity to negotiate a contract. Thus, the time to complete use of water under Permit 7253 was extended to December 1, 1981 provided, however, a valid contract is negotiated with the Corps of Engineers for storage of water in Salinas Reservoir by July 1, 1973.

State Water Board Order WR 78-3 "Decision and Order Amending Board Order Dated June 1, 1972..." authorized an extension of time under Permit 7253 to December 1, 1981. The Order states that "(f)ailure to negotiate a valid contract with the Corps of Engineers for storage of water in Salinas Reservoir

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by this date raises a presumption of lack of diligence by permittee in completing its use of water." On November 14, 1984, the Division approved a further extension of time which extended the time to complete full beneficial use of water to December 1, 1991.

The requirements which must be met before any additional extensions of time are approved are set forth in Section 844 of Title 23, California Code of Regulations. These requirements are:

> "An extension of time within which to...commence or complete construction work or apply water to full beneficial use will be granted only upon such conditions as the board determines to be in the public interest and upon a showing to the board's satisfaction that due diligence has been exercised, that failure to comply with previous time requirements has been occasioned by obstacles which could not reasonably be avoided, and that satisfactory progress will be made if an extension of time is granted.
>
> Lack of finances, occupation with other work, physical disability, and other conditions incident to the person and not the enterprise will not generally be accepted as good cause for delay. The board may, in its discretion, require a hearing upon notice to the permittee and such other parties as the board may prescribe."

In this instance, the State Water Board has previously conducted hearings to determine whether the project has been developed with due diligence and whether additional time to complete full beneficial use of water is appropriate. The requirements established by the State Water Board in the June 1, 1972 Order and in Order WR 78-3 describe the information which must be submitted to the Division to support any time extension request which is submitted.

The District's July 15, 1992 letter confirms that the District has not entered into an agreement with the Corps for storage of water in Salinas Reservoir. The Corps has allocated the entire yield of the facility to the City of San Luis Obispo. The District remains optimistic, however, that if Salinas Reservoir is enlarged in the future, water may be available for use under Permit 7253. The July 15 letter states that the District does not have the money to enlarge Salinas Reservoir and must wait until other agencies construct a project to obtain water.

The Petition was not accompanied by the required Petition fee. Thus, the Petition cannot be accepted. To be considered adequate, any Petition which is submitted at this time must be accompanied by a showing that the District has complied with Order WR 78-3 and obtained an agreement with the Corps. In the June 1, 1972 Order, the State Water Board found that no water can be claimed under this permit unless a contract with the Corps is obtained. Thus, even though Permit 7253 was issued 43 years ago, the essential access agreement needed prior to making beneficial use of water has not been obtained.

Division staff proposes that a Notice of Proposed Revocation be issued due to lack of compliance with the requirements established in Order WR 78-3, lack of diligence, lack of access to the point of diversion, and lack of financing for the project. A Notice of Proposed Revocation is enclosed. As stated in the notice, unless a request for a hearing is received within 15 days from date of receipt of this letter, we will conclude that the facts stated in the notice are correct and action will be taken to revoke the permit.

If you need further assistance, I can be contacted at (916) 657-1359. Katherine Mrowka of my staff is presently assigned to this matter, and she can be contacted at (916) 657-1951.

Sincerely,

for Gerald E. Johns

Edward C. Anton, Chief
Division of Water Rights

Enclosure

CERTIFIED

KMrowka:KDM:11745:8-12-92

STATE OF CALIFORNIA

PETE WILSON, *Governor*

STATE WATER RESOURCES CONTROL BOARD

THE PAUL R. BONDERSON BUILDING
901 P STREET
SACRAMENTO, CA 95814

Mailing Address
DIVISION OF WATER RIGHTS
P.O. BOX 2000, Sacramento, CA 95812-2000

NOTICE OF PROPOSED REVOCATION

Permit 7253 (Application 11745)

Permittee: San Luis Obispo County
Waterworks District #6

In accordance with the provisions of Section 1410 of the Water Code, notice is hereby given that revocation of this permit is proposed because work was not completed as contemplated in the permit.

The facts and information upon which the proposed revocation is based are the following:

1. Permit 7253 was issued to San Luis Obispo County Waterworks District #6 (District) on January 27, 1949. The permit authorizes direct diversion of 1.5 cubic feet per second and storage of 200 acre-feet per annum in Salinas Reservoir. Salinas Reservoir is owned by the U.S. Army Corps of Engineers (Corps).

2. In a June 1, 1972 State Water Resources Control Board (State Water Board) "Order Granting Extension of Time on Certain Permits, Imposing Clarifying Permit Terms and Revoking Certain Permits to Appropriate Water", the State Water Board found that Permit 7253 authorizes storage of water in Salinas Reservoir, although no water can be stored under this permit unless and until the District contracts with the Corps for the necessary storage space and for conveyance to the community through the conduit connecting Salinas Reservoir and the Cuesta Pumping Plant.

   The Order states that a limited extension of time should be granted for Permit 7253 to afford the parties an opportunity to negotiate a contract. Thus, the time to complete use of water under Permit 7253 was extended to December 1, 1981 provided, however, a valid contract is negotiated with the Corps for storage of water in Salinas Reservoir by July 1, 1973.

3. State Water Board Order WR 78-3 "Decision and Order Amending Board Order dated June 1, 1972..." authorized an extension of time under Permit 7253 to December 1, 1981. The Order states that "(f)ailure to negotiate a valid contract with the Corps of Engineers for storage of water in Salinas Reservoir by this date raises a presumption of lack of diligence by permittee in completing its use of water."

4. To provide further opportunity to obtain a contract with the Corps, on November 14, 1984, the Division approved an extension of time which extended the time to complete full beneficial use of water to December 1, 1991.

5. In a July 15, 1992 letter, the District stated that it is unable to obtain a contract with the Corps for storage space in the existing Salinas Reservoir because the Corps has contracted with the City of San Luis Obispo for the entire reservoir capacity.

6. The District has had 43 years since issuance of Permit 7253 to obtain the necessary storage and access agreement with the Corps.

7. The District does not have adequate financing to enlarge Salinas Reservoir to develop a water supply to serve Permit 7253.

8. Staff recommends to the State Water Board that Permit 7253 be revoked due to lack of access to the project site, lack of diligence based upon the diligence criteria established in State Water Board Order WR 78-3 and lack of finances to enlarge the reservoir.

Permittee may request a hearing before the State Water Board for the purpose of presenting evidence or testimony to show cause why this permit should not be revoked. A hearing should be requested only if the permittee can present convincing evidence disproving the facts and information set forth above. Unless a written request for hearing, signed by or on behalf of the permittee, is delivered or mailed to the State Water Board within 15 days after receipt of this notice, the Board may act upon the proposed revocation without a hearing and without further notice.

for Gerald E. Johns

Edward C. Anton, Chief
Division of Water Rights

STATE OF CALIFORNIA

STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

ORDER

APPLICATION 11745 PERMIT 7253 LICENSE

ORDER APPROVING A NEW DEVELOPMENT SCHEDULE AND AMENDING THE PERMIT

WHEREAS:

1. A petition for extension of time within which to develop the project and apply the water to the proposed use has been filed with the State Water Resources Control Board.

2. The permittee has proceeded with diligence and good cause has been shown for extension of time.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Paragraph 5 of the permit is amended to read as follows:

   COMPLETE APPLICATION OF THE WATER TO THE PROPOSED USE SHALL BE MADE ON OR BEFORE December 1, 1991 (0000009)

2. Paragraph 8 is added to the permit as follows:

   Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, 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 protect public trust uses and to, prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

   The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) to installing, maintain-ing, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. (0000012)

3. Paragraph 9 is added to the permit as follows:

Permittee shall consult with the Division of Water Rights and the Department of Water Resources, and develop and implement a water conservation plan or actions. The proposed plan or actions shall be presented to the Board for approval within one year from the date of this order or such further time as may, for good cause shown, be allowed by the Board. A progress report on the development of a water conservation plan may be required by the Board within this period. (0000029)

Dated: NOVEMBER 14 1984

Raymond Walsh

Raymond Walsh, Chief
Division of Water Rights

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Permits 5881, 5882, and 7253 Issued on Applications 10211, 10216, and 11745 U. S. CORPS OF ENGINEERS et al., Permittees.	Order: WR 78-3 Source: Salinas River County: San Luis Obispo

DECISION AND ORDER AMENDING
BOARD ORDER DATED JUNE 1, 1972
AS AMENDED OCTOBER 5, 1972; JUNE 20, 1974 (WR 74-20);
JUNE 16, 1977 (WR 77-6); AND OCTOBER 20, 1977 (WR 77-11)

BY BOARD MEMBER ADAMS:

NATURE OF PROCEEDINGS

Introduction

1. The matter of Permits 5881, 5882 and 7253 has been before this Board on several prior occasions. The permits were issued in the 1940s. Since that time, concern for the rights of downstream users of Salinas River water has prompted the Board to impose clarifying permit terms and conditions. The subject of many of the Board proceedings in this matter has been proposed modification of these clarifying terms and conditions. This is also the subject of the present proceedings. Because of the relatively complex procedural history of this matter, it is necessary to recount in some detail the events leading to today's order.

Substance of the Permits

2. Application 10211 was filed by the United States of America (Department of the Army) on May 27, 1941, for direct diversion and storage of water from Salinas River for domestic use at Camp San Luis Obispo and municipal use of any surplus in the City of San Luis Obispo. Permit 5881 was issued on October 9, 1941, for direct diversion of 12.4 cubic feet per second (cfs) at Salinas Dam from January 1 to December 31 of each year and for storage of 45,000 acre-feet per annum (afa) in Salinas Reservoir (aka Santa Margarita Reservoir) to be collected from November 1 of each year to June 30 of the following year. The U. S. Corps of Engineers (Corps) constructed the facilities under this permit and continues to operate them through the San Luis Obispo County Flood Control and Water Conservation District.

3. Application 10216 was filed by the City of San Luis Obispo (City) on June 4, 1941, for direct diversion and storage of water from Salinas River for municipal use in and around the City of San Luis Obispo. The requested appropriation was for water not required for use by Camp San Luis Obispo under Application 10211. Permit 5882 was issued on October 9, 1941, for direct diversion of 12.4 cfs at Salinas Dam from January 1 to December 31 of each year and for storage of 45,000 afa in Salinas Reservoir to be collected from November 1 of each year to June 30 of the following year. Under terms of the permit the total amount of water to be diverted under this permit and Permit 5881 of the Corps shall not exceed 12.4 cfs by direct diversion and 45,000 afa by storage.

4. Application 11745 was filed by San Luis Obispo County Waterworks District No. 6 (County) on February 26, 1947, for direct diversion and storage of water from Salinas River for municipal use in the general area of the community of Santa Margarita. Permit 7253 was issued on January 27, 1949, for direct diversion of 1.5 cfs at Salinas Dam from January 1 to December 31 of each year and for storage of 200 afa in Salinas Reservoir to be collected from November 1 of each year to June 30 of the following year.

Past Proceedings

5. Salinas Dam and Reservoir and associated water delivery facilities were constructed by the Corps and put into operation in July of 1942. Several extensions of time to complete application of water to the proposed use were granted on the subject permits. On June 1, 1972, the Board issued its order, which, among other things, extended time to complete use of water and imposed clarifying permit terms. The following provisions of that order are central to the current proceedings:

> "1. Time to complete use of water under Permit 5881 of the U. S. Corps of Engineers and Permit 5882 of the City of San Luis Obispo is extended to December 1, 1981.
>
> "2. Permits 5881 and 5882 are amended to include the following clarifying terms and conditions for the protection of downstream prior vested rights:
>
> > a. Permittee shall release water into the Salinas River channel from Salinas Reservoir in such amounts and at such times and rates as will be sufficient, together with inflow from downstream tributary sources, to supply downstream diversions of any surface flow under vested prior rights to the

extent water would be available for such diversions without the regulation of Salinas Dam and sufficient to maintain percolation of water from the stream channel as such percolation would occur without the regulation of Salinas Dam, in order that operation of Salinas Dam shall not reduce natural recharge of water into the Salinas River alluvial gravels downstream to the confluence of the Nacimiento River with the Salinas River.

This condition shall be assumed to be met during such time as there exists a visible surface flow in the Salinas River between Salinas Reservoir and the confluence of the Nacimiento River.

b. Until further order of the Board, permittee shall make or cause to be made suitable field measurements and studies and shall provide any measuring facilities necessary to determine the amount of water, timing, and rate of releases of water into the Salinas River channel below Salinas Dam required to comply with the preceding condition and shall report to the Board annually, or at such other times as the Board may require, such measurements and studies and the cumulative results.

c. The Board, either upon the request of the permittee or any party or on its own motion, may and shall, prior to the issuance of license, hear, review, and make such further and different orders as may be required concerning proper releases of water for downstream use and recharge of groundwater and concerning the measurements and studies to be conducted by or on behalf of permittee until a final determination and order can be made concerning the amounts, timing, and rates of releases of water into Salinas River in satisfaction of downstream rights.

"3. The time to complete use of water under Permit 7253 of San Luis Obispo County Water District No. 6 is extended to December 1, 1981, provided, however, a valid contract is negotiated with the Corps of Engineers for storage of water in Salinas Reservoir by July 1, 1973."

6. Pursuant to the City's petition for reconsideration of the June 1, 1972, order, the Board, on October 5, 1972, amended Paragraph 2 of that order as follows:

"a. Permittee shall release water into the Salinas River channel from Salinas Reservoir in such amounts and at such times and rates as will be sufficient, together with inflow from downstream tributary sources, to supply downstream diversions of any surface flow and groundwater extractions under prior vested rights. Until further order of this Board it will be conclusively presumed that prior vested downstream rights will be met if at all times either a visible surface flow exists in the Salinas River between the Salinas Reservoir and the confluence of the Nacimiento River or the total inflow to the Salinas Reservoir is released therefrom into the channel of the Salinas River below the Salinas Dam. The foregoing is not intended to preclude other operational criteria that will fully satisfy prior vested downstream rights.

"b. No change.

"c. The Board either upon the request of the permittee or any holder of a prior vested downstream right, or on its own motion, may and, no later than July 1, 1974, shall hear, review, and make such further and different orders as may be required concerning releases of water into the Salinas River below Salinas Dam to assure that prior vested downstream rights are satisfied and concerning the measurements and studies to be conducted by or on behalf of permittee until a final determination and order can be made concerning the amounts, timing, and rates of releases."

7. In accordance with Paragraph 2.c. of the October 5, 1972, amendment, a hearing was held on April 30, 1974 to (1) consider further the regimen of releases of water into the Salinas River below Salinas Dam (sometimes referred to herein as the "live stream concept"), as required by Paragraph 2.a. of the June 1, 1972, order, as amended on October 5, 1972; and (2) ascertain whether a contract had been negotiated between the Corps and County, as required in Paragraph 3 of the June 1, 1972, order. Because field measurements and studies, as required by Paragraph 2.b. of the June 1, 1972, order, had not been made, and

because all parties agreed, the Board issued Order WR 74-20 on June 20, 1974, extending the date for further consideration to not later than July 1, 1977.

8. On April 8, 1975, CH_2M Hill, a consultant for the Corps, completed a study on the Salinas Dam-Santa Margarita Reservoir project entitled "Water Supply Yield Study". This study was undertaken to determine the safe yield from Santa Margarita Reservoir, taking into consideration the Board's order to meet prior vested downstream rights as stated in Paragraph 2.a. of Board order of June 1, 1972, as amended October 5, 1972. Flow into and downstream of Santa Margarita Reservoir and recharge of the downstream groundwater basin were analyzed. The report recommends that in order to meet the requirements of the Board orders, the inflow to Santa Margarita Reservoir should be released at all times when there is zero flow in the reach of the Salinas River between the dam and the confluence with the Nacimiento River. The report states that the flow at the USGS gauge at Paso Robles is indicative of the flow in the Salinas River throughout this reach. The report further recommends that the effects of the suggested operating plan on the flows below the dam should be monitored in detail for a period of 3 to 5 years, in order to determine adjustments that may be necessary to more closely meet the Board's requirements.

9. The "Water Supply Yield Study" was submitted to the Board for review and comment on March 31, 1976. By letter of

May 24, 1976, to the Corps, Board staff indicated that the study did not contain sufficient justification to conclude that the flow in the Salinas River at the USGS gauge at Paso Robles is indicative of the flow in the river throughout the reach from Salinas Dam to the Nacimiento River. Recharge of the groundwater basin from Paso Robles to the Nacimiento River had not been adequately correlated with the existence of a surface flow in the river at Paso Robles. No additional information or replies to the staff's comments in this matter have been received.

10. Early in 1977, the City conducted negotiations with several interested agencies to develop criteria for the operation of Salinas Dam which would replace the "live stream concept" contained in the above-mentioned Board orders. In order to continue these negotiations, the City petitioned the Board on May 18, 1977, to extend the date for further hearing and order concerning releases of water into the Salinas River from Salinas Dam, as required by Board Order WR 74-20, from July 1, 1977, to November 1, 1977. By letter of June 13, 1977, the County, which in addition to holding Permit 7253, operates Salinas Dam and Reservoir for the Corps, joined in the request for an extension of time. Pursuant to these requests, the Board issued Order WR 77-6 dated June 16, 1977, extending the date for further hearing and order from July 1, 1977, to November 1, 1977.

Present Proceedings

11. On September 20, 1977, a public hearing was held in Sacramento on Permits 5881, 5882, and 7253. Appearances and presentations were made by the City of San Luis Obispo (Permit 5882); San Luis Obispo County Water Works District No. 6 (Permit 7253) and San Luis Obispo County Flood Control and Water Conservation District as operator of Salinas Reservoir for the Corps (Permit 5881) (one witness represented both county agencies); and the City of Paso Robles and the Atascadero Mutual Water District (one attorney represented both of these entities). A representative of the Corps was present at the hearing but did not make a presentation.

12. The purpose of the hearing was to resolve two issues. First, with reference to Permits 5881 and 5882, whether new and different orders are required concerning releases of water into the Salinas River below Salinas Dam for protection of prior vested downstream rights, and concerning measurements and studies to be conducted by or on behalf of permittees, as required by the June 1, 1972, order, as amended. Second, with reference to Permit 7253, to consider the matter of compliance with Condition 3 of the order of June 1, 1972, as amended, which required negotiation of a valid contract with the Corps by July 1, 1977.

13. The hearing record was held open until October 17, 1977, for submission of recommendations by the parties for modifying the current terms and conditions. Recommendations were received from the City, the County, and the City of Paso Robles/Atascadero

Mutual Water District. Transco Products, Inc., applicant on Application 24773 to appropriate water from a tributary of the Salinas River between Salinas Dam and the Nacimiento River, also submitted a recommendation. The City has protested this and several other applications on the basis that any new appropriators from sources within the Salinas River drainage tributary to the stated reach should also be required to contribute water for the protection of prior vested downstream rights, as the City is required to do under the June 1, 1972, order, as amended.

14. The closing of the official record of the public hearing on October 17, 1977, did not provide sufficient time to issue a further Board order in this matter by November 1, 1977, as required by Order WR 77-6 dated June 16, 1977. Consequently, Order WR 77-11 was adopted by the Board on October 20, 1977, extending the date for further order to March 1, 1978.

FINDINGS AND CONCLUSIONS

Permits 5881 and 5882

15. The "Water Supply Yield Study" prepared for the Corps represents the only attempt at compliance with Paragraph 2.b. of the June 1, 1972 order, as amended. The study is deficient; the conclusion therein that the flow in the Salinas River at the USGS gauge at Paso Robles is indicative of the flow in the river throughout the reach from Salinas Dam to the Nacimiento River is not sufficiently justified. Specifically, recharge of the

groundwater basin from Paso Robles to the Nacimiento River has not been adequately correlated with the existence of a surface flow in the river at Paso Robles. There is no indication that the stated deficiencies in the study will be corrected, or that a new study is contemplated. Therefore, the study does not provide sufficient information from which to develop alternate operating criteria for Salinas Reservoir, and such information does not appear to be forthcoming.

16. Recent attempts by local agencies to reach an agreement on alternate operating criteria for Salinas Reservoir have failed. No such criteria were presented at the hearing or in the recommendations submitted while the hearing record was held open. Nor does it appear that such criteria is forthcoming.

17. Since this Board has granted several opportunities for the development of new studies and recommendations for alternate operating criteria, and since such studies and recommendations are not imminent, there is no reason to schedule further hearings on this matter. However, no purpose is served by foreclosing the possibility of the parties reaching an acceptable agreement. Therefore, the "live stream concept" embodied in Paragraph 2 of the June 1, 1972, order, as amended, should remain in effect. In the event new studies or operating criteria are developed, the parties should be able to submit such information or proposals to the Board, and the Board may hold additional hearings on the matter.

18. Permittee San Luis Obispo County Waterworks District No. 6 has failed to negotiate a valid contract with the Corps for storage of water in Salinas Reservoir by July 1, 1977, as required by Paragraph 3 of the June 1, 1972, order, as amended. According to the County, there are three reasons why this condition has not been met. First, a draft agreement was submitted to the Corps after the 1972 Board orders, but the Corps considered any such agreement to be premature until the studies required by the 1972 orders were completed. Such a study was completed in 1975 (the "Water Supply Yield Study" discussed above), at which time the County commented to the Corps concerning the study's deficiencies. The Corps has not responded to these comments, or those submitted by the Board.

19. Second, the City has a long-term "license" with the Corps for use of water from Salinas Reservoir. The Corps has not been using any water from Salinas Reservoir for many years. Consequently, the City has been using the full yield. The County now believes that it is possible to effectuate an agreement with the Corps to store water in the reservoir under Permit 7253, despite the long-term license. The City has an alternate water supply from Whale Rock Reservoir. The County believes that the

combined yields of Salinas and Whale Rock Reservoirs exceed the current needs of the City, and that the surplus could be available to the County. The amounts of such surplus could be determined on a year-by-year basis.

20. Third, the County was not certain it had the support of the project's beneficiary, the community of Santa Margarita. However, recent communication with members of the community indicates unanimous support that Permit 7253 remain in effect and that the County pursue an agreement with the Corps to store water in Salinas Reservoir.

21. While these facts do not demonstrate vigorous efforts by the County at reaching an agreement with the Corps for storage of water in Salinas Reservoir in accordance with the proviso in Paragraph 3 of the June 1, 1972, order, as amended, no purpose is served by rescinding the extension of time in that order and revoking the permit at this time. While groundwater wells have met the requirements of the community of Santa Margarita in recent years, there is evidence that such will not be the case in the near future. The Santa Margarita Ranch, which represents a substantial land holding adjacent to the community, has not irrigated with groundwater for the past ten years, but intends to do so again soon. Such irrigation could significantly draw down the water table in the vicinity of the community's wells. Further, the County's General Plan for the

Santa Margarita area allows for a 300 percent increase in population, with a resulting increase in water use. Since the water provided for in the permit could still serve a beneficial purpose, and since it does not appear that other vested rights will be injured, the extension of time to complete use of water by December 1, 1981, granted in the June 1, 1972, order, as amended, should be allowed to stand. The agreement with the Corps to store water in Salinas Reservoir should be reached by the end of the extension period, which is December 1, 1981.

22. From the foregoing findings, the Board concludes that the "live stream concept" embodied in Paragraph 2.a. of the June 1, 1972, order should remain in effect, and that any new studies or operating criteria for Salinas Reservoir developed by the parties may be submitted to the Board for appropriate action. It is further concluded, that the extension of time granted under Permit 7253 should remain in effect, and that the matter of successfully contracting with the Corps should be deferred until December 1, 1981.

ORDER

IT IS HEREBY ORDERED that Board order dated June 1, 1972, as amended October 5, 1972; June 20, 1974 (WR 74-20); June 16, 1977 (WR 77-6); and October 20, 1977 (WR 77-11), be further amended as follows:

1. Paragraph 2.b. of said order is amended to read:

"b. Permittee may make or cause to be made suitable field measurements and studies and may formulate recommendations concerning the amount of water, timing, and rate of releases of water into the Salinas River channel below Salinas Dam to aid in reaching the objectives of Paragraph 2.a. above. Such measurements, studies, and recommendations submitted to the Board will be reviewed and the Board may hear, consider, and make such further and different orders as it deems necessary concerning releases of water into the Salinas River below Salinas Dam to assure that prior vested downstream rights are satisfied."

2. Paragraph 2.c. is deleted.

3. Paragraph 3 is amended to read:

"3. The time to complete use of water under Permit 7253 of San Luis Obispo County Water Works District No. 6 is extended to December 1, 1981. Failure to negotiate a valid contract with the Corps of Engineers for storage of water in Salinas Reservoir by this date raises a presumption of lack of diligence by permittee in completing its use of water."

Dated: February 14, 1978

WE CONCUR:

/s/ W. W. ADAMS
W. W. Adams, Member

/s/ JOHN E. BRYSON
John E. Bryson, Chairman

/s/ W. DON MAUGHAN
W. Don Maughan, Vice Chairman

P-7253

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of
Permits 5881, 5882, and 7253
Issued on Applications
10211, 10216, and 11745
U. S. Corps of Engineers, et al
Permittees

ORDER WR 77-11

Source: Salinas River

County: San Luis Obispo

ORDER EXTENDING FINAL DATE FOR FURTHER ORDER

1. Paragraph 2.c. of Board Order of June 1, 1972, as amended October 5, 1972, requires that the Board no later than July 1, 1974, shall hear, review, and make such further and different orders as may be required concerning releases of water into the Salinas River below Salinas Dam to assure that prior vested downstream rights are satisfied and concerning the measurement and studies to be conducted by or on behalf of permittee until a final determination and order can be made concerning the amounts, timing, and rates of releases.
2. Paragraph 1 of Board Order WR 74-20, of June 20, 1974, changed the date in paragraph 2.c. of Board Order of June 1, 1972, as amended October 5, 1972, to read "... July 1, 1977 ...".
3. Paragraph 1 of Board Order WR 77-6, of June 16, 1977, extended the date in paragraph 1 of Board Order WR 74-20, of June 20, 1974, to read "... November 1, 1977 ...".
4. A public hearing was held on September 20, 1977. The hearing record was held open until October 15, 1977 in order to allow for the submittal of written material by the participants.

5. Such closing of the hearing record does not allow sufficient time for issuing a further order by November 1, 1977 as required by previous Board orders.

NOW THEREFORE IT IS ORDERED:

1. That the date of "... July 1, 1977 ..." in paragraph 1 of Board Order WR 74-20, of June 20, 1974, as extended to "November 1, 1977" in paragraph 1 of Board Order WR 76-6, of June 16, 1977, be further extended to "March 1, 1978".

Dated: October 20, 1977

John E. Bryson, Chairman

W. Don Maughan, Vice-Chairman

W. W. Adams, Member

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Permits 5881, 5882, and 7253 Issued on Applications 10211, 10216, and 11745 U. S. Corps of Engineers, et al Permittees	ORDER WR 77-6 Source: Salinas River County: San Luis Obispo

ORDER EXTENDING FINAL DATE FOR FURTHER HEARING AND ORDER

1. Paragraph 2.c. of Board Order of June 1, 1972, as amended October 5, 1972, requires that the Board no later than July 1, 1974, shall hear, review, and make such further and different orders as may be required concerning releases of water into the Salinas River below Salinas Dam to assure that prior vested downstream rights are satisfied and concerning the measurement and studies to be conducted by or on behalf of permittee until a final determination and order can be made concerning the amounts, timing, and rates of releases.

2. Paragraph 1 of Board Order WR 74-20, of June 20, 1974, changed the date in paragraph 2.c. of Board Order of June 1, 1972, as amended October 5, 1972, to read "... July 1, 1977 ...".

3. The severe drought conditions existing in the State have resulted in several emergency water right hearings, special drought related studies, and special assignments in conjunction with the Dry Year Program. These drought related activities receive calendar priority under the Board's regulations. This situation is expected to continue at least through the summer of 1977.

4. The U. S. Army Corps of Engineers caused a study to be prepared entitled "Water Supply Yield Study", dated April 1975. Said study was transmitted to the Board on March 31, 1976, for review and comments in accordance with paragraph 2.b. of Board Order of June 1, 1972. Board comments dated May 24, 1976, indicated that the conclusions and recommendations concerning the Board's orders were not acceptable. No further studies have been received.

5. The City of San Luis Obipso, in a meeting with Board staff on January 28, 1977, indicated that an alternate study, to that described in item 4 above, is being pursued in accordance with paragraph 2.b. of Board Order of June 1, 1972. The City, in letter of May 18, 1977, requested a delay in the holding of a public hearing on the Salinas River until November 1, 1977, in order to further said alternate study.

NOW, THEREFORE, IT IS ORDERED:

1. That the date of "... July 1, 1977 ..." in paragraph 1 of Board Order WR 74-20, of June 20, 1974, be extended to "November 1, 1977".

Dated: June 16, 1977

ABSENT
John E. Bryson, Chairman

/s/ W. DON MAUGHAN
W. Don Maughan, Vice Chairman

/s/ W. W. ADAMS
W. W. Adams, Member

/s/ JEAN AUER
Jean Auer, Member

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Permits 5881, 5882, and 7253 Issued on Applications 10211, 10216 and 11745	Order WR 74-20
	Source: Salinas River
U. S. CORPS OF ENGINEERS, ET AL	County: San Luis Obispo
Permittees	

ORDER AMENDING ORDER OF JUNE 1, 1972
AS AMENDED OCTOBER 5, 1972

BY BOARD CHAIRMAN ADAMS:

WHEREAS:

1. Paragraph 2c of Board order of June 1, 1972, as amended October 5, 1972 requires that a hearing be held and further order made regarding Permits 5881 and 5882 no later than July 1, 1974.

2. Paragraph 3 of Board order of June 1, 1972 granted an extension of time under Permit 7253, provided a valid contract was negotiated by July 1, 1973.

3. A hearing was held on April 30, 1974 to consider the above matters.

4. The studies by the U. S. Corps of Engineers, which are required to fully comply with the Board orders have not yet been completed.

5. All parties have agreed that the dates in paragraphs 2c and 3 of the Board orders may be extended to a date not later than July 1, 1977.

NOW, THEREFORE, IT IS ORDERED:

1. That the date in paragraph 2c of Board order of June 1, 1972, as amended October 5, 1972 be changed to read "...July 1, 1977...".

2. That the date "...July 1, 1973..." in paragraph 3 of Board order of June 1, 1972 be changed to read "...July 1, 1977...".

Dated: June 20, 1974

We Concur:

W. W. ADAMS
W. W. Adams, Chairman

RONALD B. ROBIE
Ronald B. Robie, Vice Chairman

ROY E. DODSON
Roy E. Dodson, Member

MRS. CARL H. (JEAN) AUER
Mrs. Carl H. (Jean) Auer, Member

W. DON MAUGHAN
W. Don Maughan, Member

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of

Permit 5881 (Application 10211)
U. S. CORPS OF ENGINEERS

Permit 5882 (Application 10216)
CITY OF SAN LUIS OBISPO

Permit 7253 (Application 11745)
SAN LUIS OBISPO COUNTY WATER WORKS
DISTRICT NO. 6 (SANTA MARGARITA)

Permit 8471 (Application 11732)
CITY OF PASO ROBLES

Permit 8964 (Application 12526)
SAN LUIS OBISPO COUNTY WATER WORKS
DISTRICT NO. 5 (TEMPLETON)

Permittees

Source: Salinas River

County: San Luis Obispo

ORDER ON RECONSIDERATION OF
ORDER OF JUNE 1, 1972

Petitions for reconsideration of "Order Granting Extension of Time on Certain Permits, Imposing Clarifying Permit Terms, and Revoking Certain Permits to Appropriate Water" having been filed by the City of Paso Robles and the City of San Luis Obispo; by Order of July 20, 1972, the Board having granted said petitions; the City of San Luis Obispo having subsequently withdrawn its petition for reconsideration and requested the Board to amend said Order of June 1, 1972 to clarify the Board's intent that the "live stream" concept is not the sole permissible

criteria for operation of Salinas Reservoir so long as downstream prior rights are protected; that the reference to "downstream use and recharge of ground water" does in fact mean to the extent that prior downstream rights are satisfied, and to specify a definite date prior to which further hearing will be held to consider further and different order concerning the protection of downstream prior right holders; the Board having now further considered the petition of City of Paso Robles, responds to the items upon which reconsideration was granted.

1. The City requests the Board to restudy the amount of the releases for the current year and to increase them to at least 2,000 acre-feet.

The 1,000 acre-feet ordered released was based upon a study of the quantity of water which should have been released had the reservoir been operated under the criteria of the "clarifying permit terms". We believe the studies were sufficiently accurate, and additional releases are not warranted under the criteria adopted.

2. The Board did not deal with the desirability or necessity of regulation of the flows to which the downstream areas, including Paso Robles, are entitled.

The Order stated, "...the clarifying permit terms to be imposed in the permits of the Corps and City of San Luis Obispo should materially improve the water supply of these communities, and the need for additional stored water within the foreseeable future may be eliminated". We believe that statement is correct and the Board acted properly under the circumstances

in revoking the permit. We do, however, believe that the concerned parties should give consideration, as stated in the Order, to the benefits of an agreement whereby the winter flow entitlement of the downstream prior right holders might be retained in the Salinas Reservoir for release later in the season when the water would be of greater benefit to those users. This, however, should be done through agreement with the owner and operator of the dam, rather than under a permit to appropriate "unappropriated water".

3. The order revokes Permit 8471 of the City, although it grants extensions of time to others on the basis of existing or proposed contracts with the Corps.

The Board granted an extension of time only on the Santa Margarita permit on the basis of a proposed contract. This was based (1) upon the obvious need of this community, because of it being located away from the river, to contract for stored water if it is to benefit from the Salinas River runoff, and (2) Santa Margarita can be served conveniently with project water because of the proximity of the Salinas Dam--City of San Luis Obispo pipeline.

City of Paso Robles is not in this situation, insofar as its dependency on project water is concerned. Furthermore, without a conduit from the dam to the City, the transmission loss of water en route would appear to make a contractual arrangement for project water infeasible. While this was the conclusion of the Board at the time the June 1 Order was considered, subsequent experience further confirms that conclusion. Pursuant to

the June 1 Order, the County Flood Control and Water Conservation District, under direction of the U. S. Corps of Engineers, released 1,000 acre-feet of water during June 29 and 30, 1972 at the maximum capacity of the outlets of the dam (332 cubic feet per second at existing water level elevation). The surface flow reached 19 miles downstream from Salinas Dam, or about 10 miles upstream from Paso Robles. The plans of Paso Robles to acquire project water are too nebulous to justify further extension.

The Board finds that no change should be made in the Order of June 1, 1972 in response to the petition of City of Paso Robles.

The request of City of San Luis Obispo to clarify the June 1, 1972 Order is approved and paragraph 2 of the Order is amended to read as follows:

"a. Permittee shall release water into the Salinas River channel from Salinas Reservoir in such amounts and at such times and rates as will be sufficient, together with inflow from downstream tributary sources, to supply downstream diversions of any surface flow ~~under vested prior rights to the extent water would be available for such diversions without the regulation of Salinas Dam and sufficient to maintain percolation of water from the stream channel as such percolation would occur without the regulation of Salinas Dam, in order that operation of Salinas Dam shall not reduce natural recharge~~

~~of water into the Salinas River alluvial gravels downstream to the confluence of the Nacimiento River with the Salinas River~~ and ground water extractions under prior vested rights. Until further order of this Board it will be conclusively presumed that prior vested downstream rights will be met if at all times either a visible surface flow exists in the Salinas River between the Salinas Reservoir and the confluence of the Nacimiento River or the total inflow to the Salinas Reservoir is released therefrom into the channel of the Salinas River below the Salinas Dam. The foregoing is not intended to preclude other operational criteria that will fully satisfy prior vested downstream rights.

~~This condition shall be assumed to be met during such time as there exists a visible surface flow in the Salinas River between Salinas Reservoir and the confluence of the Nacimiento River.~~"

"b." No change.

"c. The Board either upon the request of the permittee or any ~~other party~~ holder of a prior vested downstream right, or on its own motion, may and, ~~prior to the issuance of license~~ no later than July 1, 1974, shall hear, review, and make such further and different orders as may be required concerning releases of water into the Salinas River

below Salinas Dam to assure that prior vested downstream rights are satisfied and concerning the measurements and studies to be conducted by or on behalf of permittee until a final determination and order can be made concerning the amounts, timing, and rates of releases."

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

Dated: October 5, 1972

W. W. Adams, Chairman

E. F. Dibble, Vice Chairman

Ronald B. Robie, Member

Roy E. Dodson, Member

Mrs. Carl H. (Jean) Auer, Member

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of

Permit 5881 (Application 10211)
U. S. CORPS OF ENGINEERS

Permit 5882 (Application 10216)
CITY OF SAN LUIS OBISPO

Permit 8471 (Application 11732)
CITY OF PASO ROBLES

Permit 7253 (Application 11745)
SAN LUIS OBISPO COUNTY WATER WORKS
DISTRICT NO. 6 (SANTA MARGARITA)

Permit 8964 (Application 12526)
SAN LUIS OBISPO COUNTY WATER WORKS
DISTRICT NO. 5 (TEMPLETON)

Permittees

Source: Salinas River

County: San Luis Obispo

ORDER FOR RECONSIDERATION OF "ORDER GRANTING EXTENSION OF TIME ON CERTAIN PERMITS, IMPOSING CLARIFYING PERMIT TERMS, AND REVOKING CERTAIN PERMITS TO APPROPRIATE WATER" DATED JUNE 1, 1972

The City of San Luis Obispo and the City of Paso Robles having petitioned the State Water Resources Control Board for reconsideration of "Order Granting Extension of Time on Certain Permits, Imposing Clarifying Permit Terms, and Revoking Certain Permits to Appropriate Water" dated June 1, 1972, and said petitions having presented issues of fact and law that merit further consideration by the Board;

NOW, THEREFORE, IT IS ORDERED that said petitions be granted and that said order be reconsidered. The parties will be notified if a further hearing is held.

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

Dated: July 20, 1972

W. W. ADAMS
W. W. Adams, Chairman

E. F. DIBBLE
E. F. Dibble, Vice Chairman

RONALD B. ROBIE
Ronald B. Robie, Member

ROY E. DODSON
Roy E. Dodson, Member

MRS. CARL H. (JEAN) AUER
Mrs. Carl H. (Jean) Auer, Member

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of

Permit 5881 (Application 10211)
U. S. CORPS OF ENGINEERS

Permit 5882 (Application 10216)
CITY OF SAN LUIS OBISPO

Permit 8471 (Application 11732)
CITY OF PASO ROBLES

Permit 7253 (Application 11745)
SAN LUIS OBISPO COUNTY WATER WORKS
DISTRICT NO. 6 (SANTA MARGARITA)

Permit 8964 (Application 12526)
SAN LUIS OBISPO COUNTY WATER WORKS
DISTRICT NO. 5 (TEMPLETON)

Permittees

Source: Salinas River

County: San Luis Obispo

ORDER GRANTING EXTENSION OF TIME ON CERTAIN PERMITS,
IMPOSING CLARIFYING PERMIT TERMS,
AND REVOKING CERTAIN PERMITS
TO APPROPRIATE WATER

The time to complete construction work and/or use of water having expired; the permittees having filed petitions for extension of time; a hearing having been held on January 26, 1972 to allow permittees an opportunity to show cause why extensions should be granted; the Board, having considered all the available information, finds as follows:

Substance of the Permits

The essential features of the permits are set forth in Table I. The storage allocations under all five permits are to be collected in Salinas Reservoir. The direct diversion allocations in Permits 5881, 5882, and 7253 are to be diverted at Salinas Dam. The direct diversion allocation under Permit 8964 is to be diverted from the Salinas River at a point near the town of Templeton. The amounts of water named in Permits 5881 and 5882 represent the same water and are not additive.

Salinas Reservoir

Salinas Reservoir was constructed in 1941 by the U. S. Corps of Engineers to provide a domestic water supply to Camp San Luis Obispo. The works comprise a dam and reservoir located on the Salinas River about nine miles upstream from the town of Santa Margarita in San Luis Obispo County; a water transmission system including 15 miles of pipeline, two pumping plants, two regulating reservoirs and appurtenant structures, and a tunnel 5,327 feet in length, all used to convey water out of the Salinas River watershed to the vicinity of the City of San Luis Obispo where the water is received into the City's distribution system. Camp San Luis Obispo is not presently using water from the reservoir. The reservoir capacity is 26,000 acre-feet, with a safe annual yield of about 5,400 acre-feet (RT 10).

The reservoir is presently operated by the San Luis Obispo County Flood Control and Water Conservation District (hereinafter called "District") under operating criteria and contract with the Corps of Engineers. The City of San Luis Obispo is the only regular user of water from the reservoir. During the past two years, the City has purchased substantially all of the safe yield of the reservoir under a contract with the Corps of Engineers, with lesser amounts having been purchased in earlier years. The contract was first negotiated in 1943 and is effective until 1983. The contract may be revoked by either party at the end of any year (RT 14).

Method of Operation

Salinas Reservoir has been operated so as to collect all inflow from November 1 of each year until the following June 30th, which period corresponds to the named storage season under the Corps permit. The reservoir occasionally spills during wet winters. Commencing July 1 of each year, an amount of water equal to the inflow to the reservoir during the preceding week is released to the downstream channel. Deliveries to the City of San Luis Obispo through the pipeline continue throughout the year. No project water has been delivered to the downstream permittees since 1966 (RT 15).

Downstream Rights

Substantial diversions of water from the Salinas River and its supporting underflow are made in San Luis Obispo County by riparian owners and the communities of Atascadero, Templeton, and Paso Robles. The extensive requirements in the Salinas River Valley in Monterey County are currently supplied from downstream tributaries and releases from Nacimiento Reservoir and San Antonio Reservoir of Monterey County Flood Control and Water Conservation District which have a combined capacity of about 700,000 acre-feet. According to the Corps' operation and maintenance manual for Upper Salinas River Dam, the depletion rate of the underground reservoir between Salinas Dam and the City of Paso Robles was estimated at 70 acre-feet per day in 1959 but may vary from year to year. The Board estimates that the summer water requirements of the users along that reach of the river are about 30 cfs. Most diversions are accomplished by shallow wells located in the porous river gravels adjacent to the river channel.

When Permit 5881 was issued in 1941, the Corps of Engineers, certain downstream protestants, and the then State Engineer recognized that operation of the reservoir could infringe on prior downstream rights if not regulated properly. The determination of the quantity of water required for downstream rights was deferred so that a permit could be issued and

construction of the dam as a wartime emergency project could proceed. A committee of engineers was appointed to conduct hydrologic studies and to develop operating criteria for Salinas Reservoir which would assure the downstream rights water to which they were entitled. Nothing in the Board's record indicated that any recommendations of this committee were ever submitted. In the meantime, the permit provided only that it was issued "subject to vested rights". As evident from the method of operation of Salinas Reservoir, insufficient consideration has been given to the downstream prior rights. Accordingly, this order should define in more detail the conditions under which water may be collected so as to avoid any continued infringement.

It is apparent that, during dry years, no water is available for storage during a major portion of the winter season if prior downstream rights are to be respected. Shortages of water have been experienced by downstream users during years when water was collected to storage in the Salinas Reservoir. The extremely dry year of 1971-72 may be cited as a year when little or no water should have been collected to storage.

The Corps of Engineers has contracted with the City of San Luis Obispo for substantially all of the yield of the reservoir, giving as a reason that the City's permit has priority

over the permits of others (RT 19). However, as the owner of the reservoir, the Corps is under no obligation to recognize the priority of the City's permit but may contract for water delivery with whom it pleases, provided the water user holds a valid water right permit for the supply received or is served under the Corps' permit.

Extensions of Time

Additional time is required for the District to gain operating experience under the clarifying permit terms to be imposed in order to determine the amount of water available for appropriation. For this reason, an extension of time should be granted on Permit 5881 of the Corps and Permit 5882 of the City of San Luis Obispo.

Permit 7253 (Santa Margarita) covers storage of water in Salinas Reservoir, although no water can be claimed under this permit without a contract with the Corps for the necessary storage space and for conveyance to the community through the conduit connecting Salinas Reservoir and the Cuesta Pumping Plant. The community received 57 acre-feet of water during 1968. No water has been delivered since that time. A limited extension of time should be granted for Permit 7253 to afford the parties an opportunity to negotiate a contract. We recommend that the Corps take into consideration the need of this community in allocating the reservoir yield.

Extension of time should likewise be granted for the 1.5 cfs direct diversion portion of Permit 8964 (Templeton). Water is being diverted from the river at the authorized point of diversion and use of water is progressively increasing. Maximum diversion had reached 0.4 cfs in July 1970, the last year of record before us.

Extensions of time for Permit 8471 of City of Paso Robles and the storage portion of Permit 8964 (Templeton) are not warranted. Both permits are for storage in Salinas Reservoir for later release down the river channel for recharging the water supply at their pumps. No contracts for storage space have been negotiated and none are apparently contemplated. Furthermore, the clarifying permit terms to be imposed in the permits of the Corps and City of San Luis Obispo should materially improve the water supply of these communities, and the need for additional stored water within the foreseeable future may be eliminated.

Related Projects

Although the hearing was limited to the Salinas River permits, the Board takes note of the various water right applications and permits on file, as well as various contracts to provide water within the county. Particularly, we cite the Whale Rock project from which no water has been used, according to our records, by the City of San Luis Obispo for the past two

years, although the city owns a 55 percent interest in the project. In addition, the county has an agreement with the County of Monterey which allows the use of up to 17,500 acre-feet per annum from Nacimiento Reservoir. No water has been used under this contract because of a lack of a conduit and distribution system. The County holds permits for water storage projects on Santa Rita Creek and Jacks Creek. The projects are still in the planning stage. The County holds a contract to receive up to 25,000 acre-feet per annum from the State Water Project to be delivered to the County by 1980. Studies are being made of receiving water from the construction of a desalination plant at Diablo Canyon with a capacity of from 30,000 to 50,000 acre-feet.

The issues raised by the hearing point to the necessity for a countywide plan whereby the needs and the resources of the entire county can be brought to bear. The Cuesta Divide should be a physical separation only. While the Board is not in a position to initiate the necessary action, it is apparent that, if the County is to meet the needs of all the people, a united effort will be necessary.

Conclusions

The Board concludes that:

(1) Cause has been shown for an extension of time to complete use of water under Permit 5881 of the Corps of Engineers

and Permit 5882 of the City of San Luis Obispo, and that certain clarifying conditions should be imposed on these permits regarding the operation of Salinas Reservoir in order that prior downstream rights may be protected.

(2) Permit 7253 (Santa Margarita) should be extended.

(3) Permit 8964 (Templeton) should be extended to the extent it pertains to direct diversion from the river. The storage portion of the permit should be revoked.

(4) Permit 11732 of the City of Paso Robles should be revoked.

(5) A study should be made by or on behalf of the Corps to determine the amount of water from the watershed above the Salinas Dam that should be released during the authorized storage season in order that the dam can be utilized to the greatest possible extent without interfering with downstream prior rights.

The District, being concerned that the water resources of the river are managed to the greatest possible benefit, should study the feasibility of storing in Salinas Reservoir, subject to agreement with the Corps of Engineers, the winter flow entitlement of the downstream prior right holders for release later in the season when the water would be of greater benefit to those users.

(6) Until the studies referred to in paragraph 5 are completed and further order of the Board, water should be collected to storage in Salinas Reservoir only during such time as a visible surface flow exists in the Salinas River between Salinas Dam and the confluence of Salinas River and Nacimiento River.

ORDER

NOW, THEREFORE, IT IS ORDERED THAT:

1. Time to complete use of water under Permit 5881 of the U. S. Corps of Engineers and Permit 5882 of the City of San Luis Obispo is extended to December 1, 1981.

2. Permits 5881 and 5882 are amended to include the following clarifying terms and conditions for the protection of downstream prior vested rights:

a. Permittee shall release water into the Salinas River channel from Salinas Reservoir in such amounts and at such times and rates as will be sufficient, together with inflow from downstream tributary sources, to supply downstream diversions of any surface flow under vested prior rights to the extent water would be available for such diversions without the regulation of Salinas Dam and sufficient to maintain percolation of water from the stream channel as such percolation would occur without the regulation of Salinas Dam, in

order that operation of Salinas Dam shall not reduce natural recharge of water into the Salinas River alluvial gravels downstream to the confluence of the Nacimiento River with the Salinas River.

This condition shall be assumed to be met during such time as there exists a visible surface flow in the Salinas River between Salinas Reservoir and the confluence of the Nacimiento River.

b. Until further order of the Board, permittee shall make or cause to be made suitable field measurements and studies and shall provide any measuring facilities necessary to determine the amount of water, timing, and rate of releases of water into the Salinas River channel below Salinas Dam required to comply with the preceding condition and shall report to the Board annually, or at such other times as the Board may require, such measurements and studies and the cumulative results.

c. The Board, either upon the request of the permittee or any party or on its own motion, may and shall, prior to the issuance of license, hear, review, and make such further and different orders as may be required concerning proper releases of water for downstream use and recharge of ground water and concerning the measurements and studies to be conducted by or on behalf of permittee until a final determination and order can be made concerning the amounts, timing, and rates of

releases of water into Salinas River in satisfaction of downstream rights.

3. The time to complete use of water under Permit 7253 of San Luis Obispo County Water District No. 6 is extended to December 1, 1981, provided, however, a valid contract is (000009) negotiated with the Corps of Engineers for storage of water in Salinas Reservoir by July 1, 1973.

4. The right to store 200 acre-feet per annum authorized under Permit 8964 of San Luis Obispo County Water Works District No. 5 is revoked, and the time to complete beneficial use of the authorized 1.5 cfs direct diversion under Permit 8964 is extended to December 1, 1981.

5. Permit 8471 of the City of Paso Robles is hereby revoked.

6. Prior to August 1, 1972, the U. S. Corps of Engineers shall release from Salinas Reservoir into the Salinas River channel 1,000 acre-feet, which is determined to be the quantity of water collected in the Salinas Reservoir during the 1971-72 runoff season which should have been allowed to flow downstream to satisfy prior vested rights. Release of water shall be at the time and rate satisfactory to the State Water Resources Control Board.

TABLE I

Permit	Priority Date of Permit	Amount of Direct Diversion in Cubic Feet per Second and Storage in Acre-feet per Annum	Season of Diversion	Purpose of Use
5881 Corps of Engineers	May 27, 1941	12.4 cfs and 45,000 afa	Entire year for direct diversion & from Nov. 1 to June 30 for storage	Domestic
5882* City of San Luis Obispo	June 4, 1941	Identical to Permit 5881		Municipal
8471 City of Paso Robles	Feb. 17, 1947	2,400 afa	November 1 to July 1	Municipal & Domestic
7253 Santa Margarita	Feb. 26, 1947	1.5 cfs and 200 afa	Entire year for direct diversion & from Nov. 1 to June 30 for storage	Municipal Domestic
8964 Templeton	May 28, 1948	1.5 cfs and 200 afa	October 1 to April 1	Municipal & Domestic

* Total amount of water diverted under this permit, together with that under Permit 5881, shall not exceed 12.4 cfs by direct diversion and 45,000 afa.

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

Dated: June 1, 1972

W. W. ADAMS
W. W. Adams, Chairman

E. F. DIBBLE
E. F. Dibble, Vice Chairman

RONALD B. ROBIE
Ronald B. Robie, Member

ROY E. DODSON
Roy E. Dodson, Member

MRS. CARL H. (JEAN) AUER
Mrs. Carl H. (Jean) Auer, Member

STATE OF CALIFORNIA—THE RESOURCES AGENCY

RONALD REAGAN, Governor

STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS
ROOM 1140, RESOURCES BUILDING
1416 NINTH STREET • SACRAMENTO 95814

ORDER APPROVING A NEW DEVELOPMENT SCHEDULE

APPLICATION 11745 PERMIT 7253

THE STATE WATER RESOURCES CONTROL BOARD HAVING DETERMINED THAT GOOD CAUSE HAS BEEN SHOWN FOR EXTENSION OF TIME WITHIN WHICH TO DEVELOP THE PROJECT PROPOSED UNDER PERMIT 7253; AND HAVING DIRECTED THAT THIS ORDER BE ISSUED;

NOW THEREFORE IT IS ORDERED THAT A NEW DEVELOPMENT SCHEDULE BE AND THE SAME IS HEREBY APPROVED AS FOLLOWS:

APPLICATION OF THE WATER TO THE PROPOSED USE SHALL BE COMPLETED ON OR BEFORE SEPTEMBER 30, 1970 (0000009)

DATED: FEB 25 1969

K. L. Woodward
K. L. WOODWARD, CHIEF
DIVISION OF WATER RIGHTS

STATE OF CALIFORNIA—RESOURCES AGENCY

STATE WATER RIGHTS BOARD

ORDER

APPLICATION 11745 PERMIT 7253 LICENSE _____

ORDER APPROVING A NEW DEVELOPMENT SCHEDULE

THE STATE WATER RIGHTS BOARD HAVING DETERMINED THAT GOOD CAUSE HAS BEEN SHOWN FOR EXTENSION OF TIME WITHIN WHICH TO DEVELOP THE PROJECT PROPOSED UNDER PERMIT 7253; AND HAVING DIRECTED THAT THIS ORDER BE ISSUED;

NOW THEREFORE IT IS ORDERED THAT A NEW DEVELOPMENT SCHEDULE BE AND THE SAME IS HEREBY APPROVED AS FOLLOWS:

APPLICATION OF THE WATER TO THE PROPOSED USE SHALL BE COMPLETED ON OR BEFORE DECEMBER 1, 1968 (0000009)

DATED: DEC 3 0 1966

L. K. Hill
L. K. HILL
EXECUTIVE OFFICER

2

ORDER

APPLICATION 11745 PERMIT 7253 LICENSE

ORDER GRANTING EXTENSION OF TIME WITHIN WHICH TO COMPLETE USE OF WATER

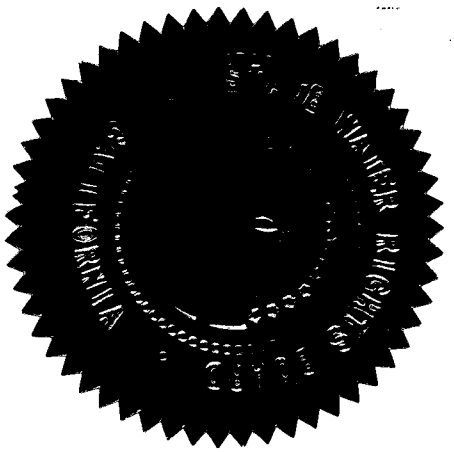
The State Water Rights Board having determined that good cause has been shown for an extension of time within which to complete application of water to the proposed use under Permit 7253 , said Board having approved such extension and having directed that this order be issued;

NOW THEREFORE IT IS ORDERED that an extension of time be, and the same is, hereby granted until December 1, 1965 , within which to complete application of water to the proposed use under said permit. (0000009)

Witness my hand and the seal of the State Water Rights Board this 31st day of March, 1964

L. K. Hill

L. K. Hill
Executive Officer



3

36587 2-61 5M SPO

ORDER

APPLICATION 11745 PERMIT 7253 LICENSE

ORDER GRANTING EXTENSION OF TIME WITHIN WHICH TO COMPLETE CONSTRUCTION AND USE

The State Water Rights Board having determined that good cause has been shown for an extension of time within which to complete construction work and application of water to the proposed use under Permit 7253, said Board having approved such extension and having directed that this order be issued;

NOW THEREFORE IT IS ORDERED that an extension of time be and the same is hereby granted until December 1, 1962, within which to complete construction work (0000008) and application of water to the proposed use (0000009) under said permit.

Witness my hand and the seal of the State Water Rights Board this 6th day of July, 1961

L. K. Hill
L. K. Hill
Executive Officer

4

FORM 100

25308 8-60 5M SPO

ORDER

APPLICATION 11745 PERMIT 7253 LICENSE

ORDER GRANTING EXTENSION OF TIME WITHIN
WHICH TO COMPLETE CONSTRUCTION AND USE

The State Water Rights Board having determined that good cause has been shown for an extension of time within which to complete construction work and application of water to the proposed use under Permit 7253 ; said Board having approved such extension and having directed that this order be issued;

NOW THEREFORE IT IS ORDERED that an extension of time be, and the same is hereby granted until December 1, 1960, within which to complete (0000008) construction work and application of water to the proposed use under said (0000009) permit.

Witness my hand and the seal of the State Water Rights Board this 25th day of March, 1959

L. K. Hill
L. K. Hill
Executive Officer

FORM 100

DEPARTMENT OF WATER RESOURCES
STATE ENGINEER

ORDER

APPLICATION 11745 PERMIT 7253 LICENSE

ORDER GRANTING EXTENSION OF TIME WITHIN WHICH TO COMPLETE CONSTRUCTION AND USE

WHEREAS good cause has been shown wherefore an extension of time should be allowed for the completion of construction work and the application of the water to complete beneficial use under the above numbered application and permit,

NOW THEREFORE IT IS ORDERED that an extension of time be and the same is hereby granted until December 1, 1958, within which (0000008) (0000009) to complete construction work and apply the water to complete beneficial use under said application and permit.

WITNESS my hand and the seal of the Department of Public Works of the State of California this 12 day of June 1956

HARVEY O. BANKS, STATE ENGINEER

By L. C. Jopson
L. C. Jopson
Assistant State Engineer

6 C&U

FORM 100

22426 9-55 5M SPO

[illegible]

DIVISION OF WATER RESOURCES
STATE ENGINEER

ORDER

APPLICATION 11745 PERMIT 7253 LICENSE

ORDER GRANTING EXTENSION OF TIME WITHIN WHICH TO COMPLETE CONSTRUCTION AND USE

WHEREAS good cause has been shown wherefore an extension of time should be allowed for the completion of construction work and the application of the water to complete beneficial use under Application 11745, Permit 7253,

NOW THEREFORE IT IS ORDERED that an extension of time be and the same is hereby granted until December 1, 1955, (0000008) (0000009) within which to complete construction work[8] and apply the water to complete beneficial use[9] under said application and permit.

WITNESS my hand and the seal of the Department of Public Works of the State of California this 12 day of January, 1953.

A. D. Edmonston
State Engineer

7

FORM 100

36167 11-50 5M SPO

STATE OF CALIFORNIA

STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

ORDER

APPLICATION 11745 PERMIT 7253 LICENSE

ORDER APPROVING A NEW DEVELOPMENT SCHEDULE AND AMENDING THE PERMIT

WHEREAS:

1. A petition for extension of time within which to develop the project and apply the water to the proposed use has been filed with the State Water Resources Control Board.

2. The permittee has proceeded with diligence and good cause has been shown for extension of time.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Paragraph 5 of the permit is amended to read as follows:

   COMPLETE APPLICATION OF THE WATER TO THE PROPOSED USE SHALL BE MADE ON OR BEFORE December 1, 1991 (0000009)

2. Paragraph 8 is added to the permit as follows:

   Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, 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 protect public trust uses and to, prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

   The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) to installing, maintain-ing, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. (0000012)

3. Paragraph 9 is added to the permit as follows:

Permittee shall consult with the Division of Water Rights and the Department of Water Resources, and develop and implement a water conservation plan or actions. The proposed plan or actions shall be presented to the Board for approval within one year from the date of this order or such further time as may, for good cause shown, be allowed by the Board. A progress report on the development of a water conservation plan may be required by the Board within this period. (0000029)

Dated: NOVEMBER 14 1984

Raymond Walsh

Raymond Walsh, Chief
Division of Water Rights

STATE ENGINEER

Application No. 11745 Filed February 26, 1947 at 8:31 A. M.
(Applicant must not fill in the above blanks)

AMENDED APPLICATION RECEIVED MAR. 18, 1947

APPLICATION TO APPROPRIATE UNAPPROPRIATED WATER

This application involves in no way the right to construct a dam

I, San Luis Obispo County Waterworks District No. 6
Name of applicant

of Santa Margarita County of San Luis Obispo
Post office

State of California, do hereby make application for a permit to appropriate the following described unappropriated waters of the State of California, *SUBJECT TO EXISTING RIGHTS:*

Source, Amount, Use and Location of Diversion Works

1. **The source** of the proposed appropriation is Salinas River
Give name of stream, lake, etc., if named; if unnamed state nature of source and that it is unnamed

located in San Luis Obispo County, tributary to Pacific Ocean

2. **The amount of water** which applicant desires to appropriate under this application is as follows:

(*a*) For diversion to be directly applied to beneficial use without storage 1.5 cubic feet per
1 cubic foot per second equals 40 statute miner's inches or 646,317 gallons per day

second, to be diverted from January 1 to December 31 of each season.
Beginning date each season Closing date each season

(*b*) For diversion to be stored temporarily and later applied to beneficial use 200 acre-feet
1 acre-foot equals 325,851 gallons

per annum, to be collected between ~~January 1~~ November 1 and ~~December 31~~ June 30 of each season.
Beginning date each season Closing date each season

Letter rec'd 12-6-48 WES.

NOTE.—Answer (*a*) or (*b*) or both (*a*) and (*b*) as may be necessary. The amounts stated must be in definite terms of some established unit of measurement. Neither these amounts nor the season may be increased after application is filed.

3. The use to which the water is to be applied is municipal and domestic
Domestic, irrigation, power, municipal, mining, industrial, recreational

purposes.

4. The point of diversion is to be located at Upper Salinas Reservoir Dam - S 71° 38' 43" E,
State bearing and distance or coordinate distances to section or quarter section corner

1197 feet from NW corner of Section 8, T 30 S, R 14 E, M.D.B.&M.

being within the NW¼ of NW¼
State 40-acre subdivision of U. S. Government survey or projection thereof

of Section 8, Tp. 30 S, R. 14 E, M.D.B. & M., in the County of San Luis Obispo

5. The main conduit terminates in SE¼ of NW¼, of Sec. 20, Tp. 29 S, R. 13 E, M.D.B.M.
State 40-acre subdivision of U. S. Government survey or projection thereof

Description of Diversion Works

NOTE.—An application can not be approved for an amount grossly in excess of the estimated capacity of the diversion works

6. Intake or Headworks (fill only those blanks which apply)

(*a*) Diversion will be made by pumping: Capacity of plant 5580 gallons per minute.
Pumping plant will be located 49,000 ft. below dam.

(*b*) Diversion will be by gravity, the diverting dam being feet in height (stream bed to level of overflow); feet long on top; and constructed of
Concrete, earth, brush, etc.

(*c*) The storage dam will be 125 feet in height (stream bed to overflow level); 600 feet long on top; have a freeboard of 10 feet, and be constructed of concrete
Concrete, earth, etc.

7. Storage Reservoir Upper Salinas River
Name

The storage reservoir will flood lands in T 30 S, R 14 E, M.D.B.&M. (See accompanying map)
Indicate section or sections, also 40-acre subdivisions unless shown upon map

It will have a surface area of 1000 acres, and a capacity of 45,000 acre-feet.

☞ In case of insufficient space for answers in form, attach extra sheets at top of page 3 and cross reference.

M 1

8. **Conduit System** (describe main conduits only)

(*a*) **Canal, ditch, flume: Width on top (at water line)** _____ feet; width at bottom _____ feet; depth of water _____ feet; length _____ feet; grade _____ feet per 1,000 feet; materials of construction _____

Cross out two not used

Earth, rock, timber, etc.

(*b*) **Pipe line:** Diameter 24 inches; length 49,000 feet; grade 2.0 feet per 1,000 feet; total fall from intake to outlet 12 feet; kind reinforced concrete or steel

Riveted steel, cement, wood-stave, etc.

NOTE.—If a combination of different sizes or kinds of conduit is to be used, attach extra sheets with complete description, also show location of each clearly on map.

9. **The estimated capacity** of the diversion works proposed is 12.4 c.f.s.

State cubic feet per second or gallons per minute

The estimated cost of the diversion works proposed is _____

Give only cost of intake, or headworks, pumps, storage reservoirs and main conduits described herein

Completion Schedule

10. **Construction work** will begin on or before as soon as permit is issued

Construction work will be completed on or before 30 days after permit is issued

The water will be completely applied to the proposed use on or before 3 years after permit is issued

Description of Proposed Use

11. **Place of Use.** General domestic, garden, and fire protection use within the District covering generally the area of town of Santa Margarita within Section 20, T 29 S, R 13 E, M.D.B.&M.

State 40-acre subdivisions of the public land survey. If area is unsurveyed indicate the location as if lines of the public land survey were projected. In the case of irrigation use state the number of acres to be irrigated in each 40-acre tract, if space permits. If space does not permit listing all 40-acre tracts, describe area in a general way and show detail upon map. These blanks need not be filled in when municipal use is proposed.

Does applicant own the land whereon use of water will be made? No

Yes or No

Applicant is Public District

If applicant does not own land whereon use of water will be made, state what arrangements have been made with owner.

12. **Domestic Use.** Domestic use is proposed as follows: General domestic use within town of Santa Margarita

Describe nature of use which may include stock water and the irrigation of domestic gardens not exceeding one-half acre each in area connected with places of residence.

The amount for which application is made was determined by actual needs

Describe basis of quantity needed

13. **Irrigation Use.** The area to be irrigated is _____ acres.

State net acreage to be irrigated

The segregation of acreage as to crops is as follows: Rice _____ acres; alfalfa _____ acres; orchard _____ acres; general crops _____ acres; pasture _____ acres.

NOTE.—Care should be taken that the various statements as to acreage are consistent with each other, with the statement in Paragraph 11, and with the map.

The irrigation season will begin about _____ and end about _____

Beginning date each season — Closing date each season

The land to be irrigated has another / no other water right or source of water supply other than that herein applied for. The nature and amount of the additional supply referred to is _____

14. **Power Use.** The total fall to be utilized is _____ feet.

Difference between nozzle or draft tube water level and first free water surface above

The maximum amount of water to be used through the penstock is _____ cubic feet per second.

The maximum theoretical horsepower capable of being generated by the works is _____ horsepower.

Second feet × fall ÷ 8.8

The use to which the power is to be applied is _____

For distribution and sale or private use, etc.

The nature of the works by means of which power is to be developed is _____

DO NOT WRITE IN THIS SPACE

ATTACH EXTRA SHEETS HERE

15. **Municipal Use.** This application is made for the purpose of serving Santa Margarita
Name city or cities, town or towns. Urban areas only
having a present population of 800

The estimated average daily consumption during the month of maximum use at the end of each five-year period until the full amount applied for is put to beneficial use is as follows:

16. **Mining Use.** The name of the mining property to be served is
Name of claim
and the nature of the mines is
Gold placer, quartz, etc.

The method of utilizing the water is

It is estimated that the ultimate water requirement for this project will be
Cubic feet per second, gallons per minute. State basis of estimate

The water will / will not be polluted by chemicals or otherwise
Explain nature of pollution, if any

and it will / will not be returned to
Name stream
in
State 40-acre subdivision
of Sec. , Tp. , R. , M.

17. **Industrial Use.** The nature of the use proposed is
Describe nature and method of use

The amount for which application is made was determined by
Describe basis of estimate of quantity needed

18. **Recreational Use.** Water will be used for
Describe nature and method of use

The amount for which application is made was determined by
Describe basis of estimate of quantity needed

General

19. Are the maps as required by the Rules and Regulations filed with Application? Yes
Yes or No
If not, state specifically the time required for filing same

20. Does the applicant own the land at the proposed point of diversion? No
Yes or No
If not, state what steps have been taken to secure right of access thereto application made to United States Engineers

21. What is the name of the post office most used by those living near the proposed point of diversion?
Santa Margarita, California

22. What are the names and addresses of claimants of water from the source of supply below the proposed point of diversion?

[SIGNATURE OF APPLICANT] C B Purcell
Member of Advisory Committee

APPLICANT MUST NOT FILL IN BLANKS BELOW

PERMIT No. 7253

This is to certify that the application of which the foregoing is a true and correct copy has been considered and is hereby approved SUBJECT TO VESTED RIGHTS and 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 one and five tenths (1.5) cubic feet per second by direct diversion from January 1 to December 31 of each year and two hundred (200) acre-feet per annum by storage to be collected from about November 1 of each year to about June 30 of the succeeding year. (0000005)

2. The maximum amount herein stated may be reduced in the license if investigation so warrants. (0000006)

3. Actual construction work shall begin on or before June 1, 1949 and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted this permit may be revoked. (0000007)

4. Said construction work shall be completed on or before December 1, 1951 (0000008)

5. Complete application of the water to the proposed use shall be made on or before December 1, 1952 (0000009)

6. Progress reports shall be filed promptly by permittee on forms appropriate to the purpose which will be provided annually by the State Engineer until license is issued. (0000010)

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 Department acting through the State Engineer 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. (0000012)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Witness my hand and the seal of the Department of Public Works of the State of California this 27th *day of* January, 19 49

EDWARD HYATT, *State Engineer*

By A. D. Edmonston

A. D. Edmonston
Assistant State Engineer