

State of California

The Resources Agency

Memorandum

To : State Water Resources Control Board
Division of Water Rights
77 Cadillac Drive
Sacramento, CA 95825
Telephone: ATSS (577) 1109

Date: November 5, 1984

From : **Department of Fish and Game, Region III**
P. O. Box 47
Yountville, CA 94599

Subject: Protest Dismissal Terms for Water Right Applications 26951 and 27929 of Mrs. Karen Hay on Brush Creek, Mendocino County.

The Department has, since 1981, conducted various studies of the hydrology and the biological resources of Brush Creek relative to the subject water applications. Additional streamflow and other hydrological data have been gathered by firms hired by the applicant and a downstream protestant. The Department recently concluded an IFIM (instream Flow Incremental Methodology) study of Brush Creek below the site of the proposed diversion. Results of this study describe the relative quantity of preferred habitat available for various life stages of steelhead in Brush Creek.

The amount of habitat available during the summer low flow period (July through October) for juvenile (less than one year old) and yearling steelhead is critically important in this stream. The IFIM study showed a slow, steady decrease in habitat area as flows decreased from 10 cfs to 3 cfs, and a precipitous loss of habitat as flows fell below 3 cfs. Hydrological studies show that summer flows during periods of no diversion are commonly at or below 3 cfs in this reach of stream. Therefore, a minimum bypass flow of 3 cfs should adequately protect the juvenile steelhead resource in this area.

Results from the IFIM studies further indicate that spawning conditions for adult steelhead are poor until flows increase to 15 cfs and improve dramatically as flows approach 30 cfs. We, therefore, believe that a minimum bypass flow of 30 cfs during the November through March migration and spawning period will protect the resource.

Our protests of subject applications may be dismissed if the applicant agrees to the following dismissal terms:

1. For the protection of fish and wildlife, Permittee shall during the period:
 - a. from November 1 through March 31, bypass a minimum of 30 cubic feet per second;

- b. from April 1 through May 31, bypass a minimum of 7.5 cubic feet per second;
 - c. from June 1 through July 31, bypass a minimum of 3.0 cubic feet per second with the condition that whenever the streamflow drops below 5 cubic feet per second at the diversion site, permittee shall stagger pumping with the downstream permittee or pump only during nighttime hours (8 p.m. to 8 a.m.);
 - d. no diversion shall occur between August 1 and October 31;
 - e. cumulative rate of diversion for the two permits shall not exceed 2.0 cubic feet per second from November 1 to April 30.
2. The total streamflow shall be bypassed whenever it is less than the designated amount for that period.
 3. No water shall be diverted under this permit until permittee has installed a device satisfactory to the State Water Resources Control Board which is capable of measuring the flow required in these terms. Said measuring device shall be properly maintained.
 4. In accordance with Section 1601-03 of the Fish and Game Code, no water shall be diverted under this permit until the Department of Fish and Game has determined that measures necessary to protect fishlife have been incorporated into the plans and construction of said diversion. The construction, operation, and maintenance costs of any facility required pursuant to this provision shall be borne by the permittee.

Robert C. Fox
Deputy Director

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