

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 27558)
for a Temporary Permit of)
CONTRA COSTA WATER DISTRICT)
To Divert and Use Water From Mallard)
Slough in Contra Costa County)

ORDER: WR - 82-14
SOURCE: Mallard Slough
COUNTY: Contra Costa County

ORDER DECLINING TO ISSUE TEMPORARY PERMIT

BY THE BOARD:

Application 27558 having been filed by Contra Costa Water District on October 22, 1982, and the application having been duly considered; the Board finds as follows:

1. Contra Costa Water District (hereinafter the District) has filed Application 27558 for a temporary permit to appropriate 4,500 acre-feet of water from Mallard Slough from October 25, 1982 to December 31, 1982 for municipal and industrial use within the District's service area in Contra Costa County.
2. The District currently holds License 10541 (Application 5941) issued on August 12, 1975 which entitles it to appropriate 14,480 acre-feet from January 1 to December 1 of each year from the same source and point of diversion covered by the instant application. The District estimates that the maximum quantity licensed under License 10541 was reached by October 20, 1982.
3. By letter dated October 19, 1982, the District states that it has an urgent need to divert and use the water for a period of less than six months. Neither the application nor any material submitted in support of the Application alleges any specific facts which constitute a showing of urgency.

4. Water Code Section 1425, subsection (a), authorizes issuance of a conditional temporary permit when the Board finds that an applicant has an urgent but only temporary need to divert and use water for a period not to exceed six months and when the Board finds that the water may be diverted without injury to any lawful user of water, and without unreasonable effect upon fish, wildlife, or other instream beneficial uses.

5. In accordance with the authorization of Water Code Section 1425, the Board has adopted Resolution No. 77-16 delegating authority to Board members individually to act on applications for temporary urgency permits. Paragraph 6 of said Resolution delegates authority to individual Board members to decline to authorize issuance or renewal of a conditional temporary permit if the findings required by Chapter 6.5, Part 2, Division 2 of the Water Code (commencing with Section 1425) cannot be made; provided that the Board member shall report the findings supporting this decision to the Board at its next regular meeting. The Board must then adopt the Board member's findings and decision as its own, or decline to do so, and decide the matter itself.

6. Board Member Jill D. Golis has reviewed the available evidence relating to the urgency of the District's need to divert water under a temporary permit, and on the basis of such review cannot make the findings required by Chapter 6.5, Part 2, Division 2 of the Water Code. Specifically, Board Member Golis finds that the District has not alleged or established sufficient facts to constitute a showing of urgency as required by subsection (a) of Water Code Section 1425. Board Member Golis declined to authorize issuance of a temporary permit to the District and advised the District of this decision in a letter dated October 26, 1982.

7. The Board concurs in the findings and decision of Board Member Golis as set forth in paragraph 6 above.


NOW, THEREFORE, IT IS ORDERED:

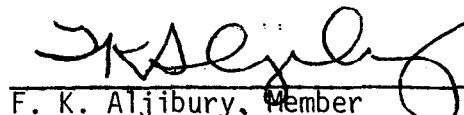
1. That the decision of Board Member Golis to decline to issue a temporary conditional permit on Application 27558, and the findings supporting such decision, are adopted as the decision and findings of the Board.

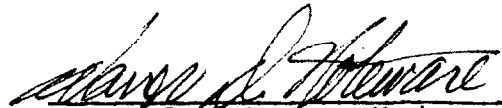
2. Application 27558 is denied.


Dated: November 18, 1982


Carole A. Onorato, Chairwoman


L. L. Mitchell, Vice Chairman


F. K. Aljibury, Member


Warren D. Noteware, Member


Will D. Golis, Member