

STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 77-7

GRANTING REQUEST FOR REINSTATEMENT
OF REVOKED PERMIT 13122 (APPLICATION
18405), OF USIBELLI COAL MINE, INC.,
FROM MAXWELL CREEK IN NAPA COUNTY

WHEREAS:

1. Usibelli Coal Mines, Inc., was the holder of Permit 13122 (Application 18405) filed November 12, 1958 which allowed appropriation by storage of 1,500 acre feet per annum (afa) of water from Maxwell Creek from November 1 to March 1 of the following year for irrigation and recreational purposes.
2. Permit 13122 contemplated an onstream storage reservoir on Maxwell Creek in Napa County or diversion from Maxwell Creek to an offstream storage reservoir, also authorized under Permit 15943 (Application 22739) for 620 afa, to be constructed across an unknown stream tributary to Burton Creek, thence Maxwell Creek.
3. The time to complete application of water to beneficial use under the permit expired December 1, 1970. A field inspection on May 5, 1971 determined that the onstream reservoir would not be constructed on Maxwell Creek because of unsuitable foundation conditions and that the offstream reservoir was, at that time, considered infeasible.
4. Permit 13122 was revoked by order dated April 20, 1973, pursuant to notice of revocation (which also provided opportunity to request a hearing) dated June 6, 1972, for failure to apply water to beneficial use as contemplated in the permit. Said notice also provided for issuance of license pursuant to Permit 15943 on 92-acre-foot reservoir at site of proposed offstream reservoir.
5. Permittee, in summer and fall of 1973, constructed an 830-acre-foot reservoir on said unnamed stream. Said reservoir is 210 acre-feet (af) in excess of the 620 af provided for under Permit 15943 (Application 22739) which was reinstated on June 30, 1974 under other Board action.
6. Permittee states that he misunderstood the June 6, 1972 notice of revocation, that there was an apparent misunderstanding regarding future plans for construction of the offstream reservoir, that engineering studies for the offstream reservoir had been continuously pursued, and has requested the Board to reinstate Permit 13122 to provide a right for the said 210 af.
7. Permittee states that reinstatement of Permit 13122 would be preferable to filing a new application since it would require less Board time and resources than processing a new application.

8. The Board concurs that reinstatement is preferable to processing a new right, and finds no error on part of the permittee or the Board and, in the interest of justice, deems it advisable to reinstate Permit 13122 (Application 18405) to cover existing construction.

THEREFORE BE IT RESOLVED:

1. That the request of Usibelli Coal Mines, Inc., for reinstatement of Permit 13122 (Application 18405) is hereby granted, in part, not to exceed 210 acre feet per annum.

CERTIFICATION

The undersigned, Executive Officer of the State Water Resources Control Board, does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board on February 17, 1977.

Dated: FEB 17 1977

Bill B. Dendy

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Executive Officer