

STATE OF CALIFORNIA  
STATE WATER RIGHTS BOARD

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In the Matter of Application 16900 )  
by Hawkins Cattle Company )

Source: Four unnamed  
streams,  
tributary to  
Las Viboras Creek

Counties: San Benito and  
Santa Clara

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Decision No. D 885

Decided: January 27, 1958

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In attendance at investigation conducted by the staff of  
the State Water Rights Board on May 10, 1957:

T. B. Hawkins	Representing the Applicant
Frank S. Guerra	
M. J. Galvin	Representing the Protestants
J. J. Heacock	Representing the State Water
Senior Hydraulic Engineer	Rights Board

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DECISION

Substance of the Application

The application, filed February 20, 1956, is for a permit to appropriate a total of 6.7 acre-feet of water per annum, to be collected between October 1 and June 1 of each season, for storage and later use for stockwatering purposes. Three of the four dams mentioned in the application are erroneously described therein as

to location and a petition to correct the descriptions of those dams is on file. The land involved is an old rancho, and all sections are projected. The petition to correct the description of the points of diversion does not involve the introduction of any new source or any increase in the amount of the appropriation. It involves the correction of clerical errors. Since this petition can be granted without prejudice to anyone, an order will be entered accordingly.

The dams described in the application are complete and the following tabulation gives essential data:

Reservoir

Dam No.	Name	Height : feet	Length : feet	Area : Acres	Capacity : AF	Water-shed : acres	Location		
1	Messic Mt.	23.5	184	0.6	2.4	11	NW $\frac{1}{4}$	NE $\frac{1}{4}$	Sec.27
2	Rattlesnake	16.0	77	0.2	0.6	44	SW $\frac{1}{4}$	NW $\frac{1}{4}$	Sec.21
3	Cow Field	17.3	267	1.2	1.8	254	SE $\frac{1}{4}$	NW $\frac{1}{4}$	Sec.20
4	McKnight	11.7	182	0.4	1.9	120	NE $\frac{1}{4}$	NE $\frac{1}{4}$	Sec.32
TOTAL				2.4	6.7	429			

All sections within T11S, R6E, MDB&M.  
None of the dams have outlet pipes.

Use is for watering 1,500 head of stock directly from the reservoirs.

Protest

Frank S., Carl F., and Anthony F. Guerra, protest approval of the application, alleging that there will be no water left to irrigate their 46 acres of orchard. They claim a right to divert 0.675 cubic foot per second to be diverted from about

December 1 to about April 1 of each season, for the irrigation of 44 acres under License 2082 issued in the matter of Application 8542. They claim to flood irrigate their orchard twice during that period when water is available.

They state that the protest may be disregarded and dismissed if:

"...applicant will recognize our rights and agree not to infringe upon our first rights to use the water under our license and agrees to pay Court Costs and attorney fees in case there is a violation by applicant of our rights."

#### Answer

No answer to the protest has been submitted.

#### Field Investigation

The applicant and the protestants with the approval of the State Water Rights Board stipulated to proceedings in lieu of a hearing as provided for under Section 737 of the Board's rules, and a field investigation was conducted on May 10, 1957, by an engineer of the Board. The applicant and protestants were represented at the investigation.

#### Records Relied Upon

Applications 8250, 8542, 9481, and 16900 and all relevant information on file therewith; United States Geological Survey Three Sisters quadrangle, 7½ minute; United States Geological Survey Water Supply Papers, Part 11, Pacific Slope Basins in California; State Water Resources Board, Bulletin No. 1, "Water

Resources of California", dated 1951; Department of Public Works, Bulletin No. 5, "Flow in California Streams", dated 1923.

Information Obtained by Field Investigation

The applicant owns about 15,000 acres, mostly within the Arroyo de las Viboras watershed, and grazes an average of about 1,500 head of stock thereon from October through June of each season. The small reservoirs are scattered over the range in areas where no other water is available, so the cattle will make better use of the range and will not have far to travel for water.

There are no records of runoff for Arroyo de las Viboras and apparently no precipitation records within the watershed.

Pacheco Creek is the next contiguous watershed to the north of Arroyo de las Viboras. An inspection of the topography of the two watersheds indicates that the runoff should be comparable.

These dams are complete, and water has been used for the past few years for stockwatering purposes.

After viewing the projects, both Mr. Guerra and Mr. Galvin indicated they did not feel that the projects would materially affect the protestants, but Mr. Guerra did not wish to withdraw the protest until he had an opportunity to consult with his attorney.

The reservoirs are small; the watersheds, in general, above them are fairly steep grasslands, so runoff usually will be early, and the reservoirs will be filled before the storms that would have sufficient precipitation to have runoff reaching the protestants' point of diversion.

Other Information from Office Files

A report covering an inspection made in connection with the issuance of License 2486 (Application 8250) which authorizes Pacheco Pass Water District to divert 3.75 cubic feet per second directly and to divert 1,200 acre-feet per annum to storage from Arroyo de las Viboras, at a point within the SW $\frac{1}{4}$  SW $\frac{1}{4}$  of projected Section 31, T11S, R6E, MDB&M, between December 15 and May 1, for domestic purposes and irrigation, contains the following statement:

"There is some runoff available in all years. As stated, on the average flow extends from January to about April 1st but in good years water may be available from December 15 into May."

A report covering an inspection made in connection with the issuance of License 2082 (Application 8542) which authorizes the protestants Guerra to divert 0.675 cubic foot per second between December 1 and April 1 of each season from Arroyo de las Viboras at a point within the NE $\frac{1}{4}$  of NE $\frac{1}{4}$  of projected Section 2, T12S, R5E, MDB&M, for irrigation, contains the following statement:

"Arroyo de las Viboras is a wet weather stream. Runoff may occur any time between December and June. Permittee is dependent largely on releases from Pacheco Pass Irrigation District's reservoir above."

License 2686 (Application 9481) authorizes Helen Pearl Schulze, et al., (Hawkins Cattle Company) to divert 9.26 cubic feet per second directly between April 1 to June 15 and to collect 575 acre-feet per annum in storage, between January 1 and May 15 from Arroyo de las Viboras and from the north branch thereof, at points within projected Sections 21, 29 and 33 of T11S, R6E, MDB&M, for domestic use and irrigation.

The United States Geological Survey Water Supply Papers contain records of the flow of Pacheco Creek since January, 1940, at "Pacheco Creek near Dunneville, California". The drainage area above the station contains about 146 square miles, and the topography and exposure of that area appear comparable with that of Arroyo de las Viboras. According to the published records, annual flows, and a portion of the monthly flows, past the station have been as follows:

Pacheco Creek, near Dunneville, California  
Acre-feet

Year	*Oct	*Nov	*Dec**	*Jan**	*Feb**	*Mar**	*Apr	*May	Sept	Seasonal Total
1940-41	223	208	3490	13280	28070	24020	13920	1050	145	84970
1941-42	109	154	5040	7450	9150	3420	2900	392	124	29540
1942-43	124	715	631	16090	3260	18290	1320	294	200	41800
1943-44	203	42	1	222	8170	8990	254	383	330	19800
1944-45	331	122	14	59	16915	5350	834	193	154	24680
1945-46	156	86	3230	2190	476	161	344	361	0	7300
1946-47	77	1810	142	64	196	2730	13	143	0	5260
1947-48	0	0	0	0	0	0	0	0	0	0
1948-49	0	0	0	0	0	1890	849	153	0	2890
1949-50	0	0	0	559	2560	386	672	802	0	5060
1950-51	0	13520	15750	3690	1940	4930	253	501	354	42600
1951-52	377	273	4810	34970	5440	13560	2330	344	291	63310
1952-53	311	72	3280	5010	296	101	149	410	64	10840
1953-54	0	0	0	0	0	139	57	0	0	197
TOTAL	1911	17002	36388	83584	76508	83967	23895	5026	1662	338247
AVERAGE	136	1230	2600	5960	5390	6000	1700	358	119	24110
% OF ANNUAL	0.3	5.0	10.7	24.7	22.6	24.8	7.1	1.5	0.4	100.0

\*Months during which applicant proposes to divert  
\*\*Months during which protestants divert

Bulletin No. 1, "Water Resources of California", indicates (in Table 38 thereof) that mean seasonal runoff, 1894-95 to 1946-47, of Pacheco Creek above gage near Dunneville, has been 34,000 acre-feet, or approximately 10,000 acre-feet per season more than the average of the 14 years of record as indicated in the above table.

Bulletin No. 5, "Flow in California Streams", indicates (in Table 2 thereof) that Pajaro River tributaries have a drainage area of 1,070 square miles and a mean seasonal runoff of 261 acre-feet per square mile. Both Pacheco Creek and Arroyo de las Viboras are tributaries of Pajaro River.

A comparison of periods of diversion from Arroyo de las Viboras under the various appropriative water rights is shown in the following table:

	Type	Diversion	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June
License 2486	Direct				15	x	x	x	x	1	
	Storage				15	x	x	x	x	1	
License 2082**	Direct				x	x	x	x	1		
License 2686	Direct								x	x	15
	Storage					x	x	x	x	15	
Application 16900	Storage	x	x	x	x	x	x	x	x	x	1

Numeral indicates beginning or ending date.

x indicates entire month.

\*\* Protestants' right.



## Discussion

According to the last preceding table, protestants' diversion under their appropriative right extends from December 1 to April 1 of each season, and the season of diversion requested by the applicant extends from October 1 to June 1 of each season.

The tabulation of runoff of Pacheco Creek shows that in 10 of the 14 years of record there was runoff during the months of October and November, 13 of 14 years in April, and 12 of 14 years in May, so in most years there would be water available for the applicant outside of the season of direct diversion of the protestants. The reservoirs are near the headwaters of the drainage area, and as stated above the contributory watersheds are generally steep, so there will be runoff in those watersheds at times when no surface water is reaching the valley floor in the area of the protestants or of the Pacheco Pass Water District's diversion. The protestants' point of diversion is approximately 1.8 miles downstream from the diversion works of the Water District and about 5 miles below the applicant's lower reservoir.

From the 14 years of record on Pacheco Creek the average seasonal runoff is about 24,100 acre-feet for a watershed area of 146 square miles, or an average of 165 acre-feet per square mile. That average runoff is considerably less than the estimated mean of 34,000 acre-feet given in Bulletin No. 1 and likewise the record of 165 acre-feet per square mile is considerably less than the 261 acre-feet per square mile shown in Bulletin No. 5.

The watershed above the protestants' point of diversion contains about 23 square miles, and using the 165 acre-feet per

square mile runoff for the 14-year record on Pacheco Creek, the average seasonal, unimpeded flow would be 3800 acre-feet for said area. The amount sought under the application under consideration is 6.7 acre-feet, or less than 0.2 per cent of the average available, a relatively insignificant portion.

#### Conclusions

The information indicates and the Board finds that in most years unappropriated surface waters exist in the sources from which the applicant seeks to appropriate, and such water may be taken and used beneficially in the manner proposed in the application without injury to the protestants or other downstream users. It is therefore the conclusion of the Board that Application 16900 should be approved and that a permit should be issued to the applicant, subject to the usual terms and conditions.

Order

Application 16900 for a permit to appropriate un-appropriated water having been filed, a protest having been submitted, proceedings in lieu of a hearing having been taken under the Board's rules by stipulation of the parties, and said Board now being fully informed in the premises:

IT IS HEREBY ORDERED that the petition, filed with the Board on May 23, 1957, to correct the description of the points of diversion described in Application 16900 be, and the same is, hereby approved, and said application is amended accordingly.

AND IT IS FURTHER ORDERED that Application 16900 as amended be, and the same is, hereby approved, and it is ordered that a permit be issued to the applicant subject to vested rights and to the following terms and conditions, to wit:

1. The amount of water appropriated shall be limited to the amount which can be beneficially used and shall not exceed 6.7 acre-feet per annum to be collected from about October 1 of each year to about June 1 of the succeeding year; all as more explicitly set forth in Paragraph 2(b) of this approved application.
2. The maximum amount herein stated may be reduced in the license if investigation so warrants.
3. Actual construction work shall begin on or before June 1, 1958, and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked.

4. Said construction work shall be completed on or before December 1, 1959.

5. Complete application of the water to the proposed use shall be made on or before December 1, 1960.

6. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the State Water Rights Board until license is issued.

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 State Water Rights Board 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.

Adopted as the decision and order of the State Water Rights Board at a meeting duly called and held at Sacramento, California, on this 27th day of January, 1958.

/s/ Henry Holsinger  
Henry Holsinger, Chairman

/s/ W. P. Rowe  
W. P. Rowe, Member