

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 14804)
by South Sutter Water District) Source: Bear River
Counties: Yuba and Placer

Decision No. D 887 .

Decided: February 28, 1958

Appearances at hearing held at Sacramento on September 3, October 2, 14, 15, and 17, 1957, by Henry Holsinger, Chairman, W. P. Rowe, Member, and John B. Evans, Member, State Water Rights Board:

For the Applicant

South Sutter Water District Harry B. Seymour
Attorney

For the Protestants

Camp Far West Irrigation Martin M. McDonough
District Attorney

Nevada Irrigation District David Minasian
Attorney

State Department of Lucian B. Vandegrift
Fish and Game Deputy Attorney General

For Interested Parties

United States Bureau John K. Bennett
of Reclamation Assistant Regional Solicitor

State Department of Russell Kletzing
Water Resources Associate Attorney
Department of Water Resources

DECISION

Substance of the Application

Application 14804, filed May 12, 1952, by the County of Sutter and subsequently assigned to South Sutter Water District is for a permit to appropriate 360 cubic feet per second by direct diversion, year-round, and 95,000 acre-feet per annum by storage in Camp Far West Reservoir to be collected between October 1 of each year and July 1 of the succeeding year from Bear River for irrigation and domestic purposes. The existing Camp Far West Dam (now owned and operated by Camp Far West Irrigation District) located within the NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 21, T14N, R6E, MDB&M*, is to be enlarged into a concrete structure 151 feet high by 2800 feet long. Water impounded by the enlarged dam will form a reservoir of 95,000 acre-feet capacity and will have a surface area of 1910 acres. The conduit system is to include a canal 15 miles in length, having a capacity of 360 cubic feet per second. The place of use consists of 59,000 acres within a gross acreage of 73,984 acres within the boundaries of the South Sutter Water District.

Protests and Answers

Protests against the subject application were received from the following:

Camp Far West Irrigation District
Nevada Irrigation District
State Department of Fish and Game
California Packing Corporation

* All township references herein are to Mount Diablo Base and Meridian (MDB&M). Further designation of base and meridian is therefore unnecessary and will be omitted.

The protests in general are based upon apprehensions that the diversions and/or impoundments that applicant proposes will interfere with the exercise of the protestants' alleged rights to divert surface flows and/or to pump from wells that are fed therefrom. The Camp Far West Irrigation District represents that the proposed enlargement of the Camp Far West Dam will interfere with effective use of the existing works in that the existing dam is so constructed as to control silting while the proposed dam is not; it also contends that the proponents of dam enlargement lack necessary rights of access. The State Department of Fish and Game contends that since the amounts the applicant seeks to appropriate exceed minimum flows in Bear River, game fish which are present and spawn therein will be destroyed unless, in the event of approval of the application, the permit is suitably conditioned.

Among the statements contained in answers to the protests are those by applicant South Sutter Water District to the effect that it will recognize and respect all prior water rights, that unappropriated water exists in amounts that are adequate for the uses contemplated in its application, that such water may be utilized in the manner proposed without injury to any protestant and that the development that it proposes will result in larger flows in Bear River below Camp Far West Dam, in seasons of low flow, than presently exist, and that the appropriation which it (the district) proposes will not adversely affect fish life.

Hearing Held in Accordance with the Water Code

Application 14804 was completed in accordance with the Water Code and applicable administrative rules and regulations and was set for public hearing under the provisions of the California Administrative Code, Title 23, Waters, before the State Water Rights Board, on Tuesday, September 3, 1957, at 10 o'clock a.m., in the Board hearing room, 1401 21st Street, Sacramento, California. Of the hearing the applicant and protestants were duly notified. The hearing extended through later sessions, convened on October 2, 14, 15, and 17, 1957. The application was consolidated for hearing with Applications 14599, 14704, 14705, and Permit 5803.

Watershed

Bear River originates near Emigrant Gap in Nevada County on the western slope of the Sierra Nevada in T17N, R12E, at an elevation of about 5,000 feet and flows southwesterly to its junction with Feather River about 15 miles south of the City of Marysville. It forms a boundary line between Nevada and Placer Counties and Yuba and Placer Counties and closely parallels the Bear River-American River divide, which is one to two miles south.

Some 284 square miles of Bear River watershed are tributary to the Camp Far West Dam. The principal tributaries-- Steep Hollow, Greenhorn and Wolf Creeks--enter Bear River from the north.

Mean annual precipitation within the drainage basin varies from about 18 inches at Feather River to about 65 inches near Lake Spaulding where much of it falls as snow. The climate

of the area, like its topography, is varied. At lower elevations the summers are warm and dry with long growing seasons. At higher elevations the growing season is short and nights are cold. Approximately 80 per cent of the seasonal precipitation occurs during the five-month period, November through March.

Water Supply

Bear River is a perennial stream with wide seasonal and annual variations in flow. Regulation of the flow of Bear River is mainly at Combie (within Section 2, T13N, R8E) and Camp Far West Reservoirs. However, Parker Reservoir, a project proposed by Nevada Irrigation District, is to be located a short distance upstream from Combie Reservoir within Section 30, T14N, R9E. Above the Parker Dam site imports to the Bear River from the Yuba River watershed are made by Pacific Gas and Electric Company through the "Drum System". The imported water is normally re-diverted at several points and used for power generation before it reaches Parker Dam site. According to the water supply papers of United States Geological Survey (Staff Exh. 10), there are two gaging stations maintained on Bear River below the Parker Dam site. The "Bear River near Auburn" gage is located eight miles north of the city of Auburn 300 feet upstream from the bridges on State Highway 49, and the "Bear River near Wheatland" gage is located at the bridge on US Highway 99E one mile south-east of the town of Wheatland. Flow measured at the "near Auburn" gage includes the natural runoff of Bear River and spillage, if any, from Nevada Irrigation District's Combie Reservoir-Gold Hill Canal and from Pacific Gas and Electric Company's "Drum System".

This gage is located about five miles downstream from Parker Dam site and has a catchment basin of 140 square miles (NID Exh. 12).

The "near Wheatland" gage is located about six miles downstream from Camp Far West Dam and has a catchment basin of 295 square miles, 11 square miles of which contribute to the river below the dam. The runoff at this gage is the flow passing the "near Auburn" gage plus that which originates from natural drainage on the 155 square miles between the gages. Table I sets forth by months the runoff of the area between the two gages for the period of published record (Staff Exh. 10).

Camp Far West Project

The Camp Far West Project, the project envisioned in Application 14804 by South Sutter Water District (hereinafter referred to as South Sutter), proposes enlargement of the existing Camp Far West Reservoir to store waters of the Bear River which are urgently needed for irrigation and domestic purposes within the boundaries of South Sutter. The principal feature of the project is an earth-fill dam across Bear River superimposed on the existing concrete gravity dam. The enlarged reservoir is to have a capacity of 104,000 acre-feet and will be located within both Yuba and Placer Counties. Water released from the reservoir is to flow down the natural river channel for rediversion at the existing diversion reservoir of Camp Far West Irrigation District. This water is to be used for irrigation of approximately 55,000 acres (SSWD Exh. 4).

Table I.

Flow Originating Between USGS Gages "Bear River near Wheatland" and "Bear River near Auburn"

Monthly mean flow in acre-feet

	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Totals
1941-42	2,224	3,140	29,500	34,870	49,240	21,330	38,380	10,330	2,570	280	1,056	1,005	193,925
43	584	7,480	12,320	44,400	23,150	46,860	8,910	4,170	1,990	730	1,623	209	152,426
44	1,140	1,891	4,420	4,950	24,140	23,230	3,620	1,490	950	387	202	61	66,481
1944-45	197	11,070	6,140	1,730	46,880	19,580	3,770	--	120	--	--	442	89,929
46	2,631	7,180	41,100	15,170	9,800	14,410	500	240	100	548	28	--	91,707
47	2,059	5,590	7,790	3,570	14,790	16,970	2,490	--	181	--	--	--	53,440
48	3,103	3,230	1,910	7,340	2,820	10,950	15,280	6,370	2,830	157	--	248	54,238
49	2,604	4,080	9,040	6,620	10,520	49,950	--	2,640	697	--	--	84	86,235
1949-50	420	2,162	2,750	24,720	30,520	22,500	2,280	2,860	--	691	345	700	89,948
51	2,617	45,060	60,870	64,830	26,870	23,750	4,070	6,870	1,110	114	210	873	237,244
52	2,680	5,470	25,500	82,300	65,370	49,460	5,880	--	1,500	1,040	1,018	2,036	242,254
53	804	1,779	10,100	35,370	3,400	11,870	9,720	5,970	--	--	758	1,183	80,954
1953-54	1,990	4,140	3,990	21,760	25,520	29,730	6,840	1,140	276	299	20	8	95,713
Totals	23,053	102,272	215,430	347,630	333,020	340,590	101,740	42,080	12,324	4,246	5,260	6,849	1,534,494
Average	1,773	7,867	16,572	26,741	25,617	26,199	7,826	3,237	948	327	405	527	118,038
Median	2,059	4,140	9,040	21,760	24,140	22,500	5,880	2,640	697	280	202	248	89,948

South Sutter has entered into a contract agreement with Camp Far West Irrigation District (present owners and operators of Camp Far West Reservoir) which in substance makes Camp Far West Irrigation District a partner in the South Sutter project and safeguards the prior rights of the former district. This agreement (SSWD Exh. 3) provides that South Sutter shall make available at a stipulated price all of the water required by Camp Far West Irrigation District for irrigation within its boundaries to the extent of existing licenses and in addition "first" right to 4,000 acre-feet of water after June 1 for the cost of storage.

Need for Water

South Sutter comprises about 55,000 acres of land in Sutter and Placer Counties; nearly all of this land is irrigable (R.T. 10/2/57, pp. 61, 62, and 69). It is estimated that the average seasonal application of water is 3.5 acre-feet per acre delivered to the land (Staff Exh. 6). This being the case a need for some 192,500 acre-feet of water would exist. At the present time the requirements for irrigation within the district are served mainly from ground water. A serious problem has arisen in this connection as the water table is dropping at the rate of 10 to 15 feet per year, and official records show extractions in excess of 40,000 acre-feet annually from the underground supply (R.T. 10/2/57 pp. 68-70). With the introduction of supplemental water the overdraft on ground water supply will be eliminated or at least reduced.

Testimony given at the hearing (R.T. 10/2/57, pp. 67-70) indicates that the need for water in the South Sutter area is immediate and the situation is becoming acute, that new wells further deplete the supply currently available, that a supplemental supply of water is necessary and that the Camp Far West Project is the most feasible source.

The California Water Plan

The California Water Plan (Bulletin No. 3, Department of Water Resources, May, 1957 - Staff Exh. 4) includes as principal features relating to Bear River the following:

a. Rollins Reservoir, or suitable alternate, on the middle reaches of Bear River, with a gross storage capacity of 100,000 acre-feet.

b. The enlargement of Camp Far West Reservoir, or suitable alternate reservoir, at the foothill line of Bear River, to gross storage capacity of 242,000 acre-feet.

The Legislature appropriated money for the California Water Development Program in 1956 and further indicated its interest in the program by adopting a resolution in 1957 (Senate Concurrent Resolution 130, Chapter 296, California Statutes of 1957), requesting the Department of Water Resources to expedite its feasibility investigation of the Yuba and Bear Rivers. That department is proceeding with the investigation at a pace commensurate with the availability of funds and qualified personnel. It is estimated that the preliminary planning will be completed by December, 1959, with the final

report scheduled for completion by December, 1961 (R.T., 10/2/57, p. 27).

Although the project proposed by the applicant is somewhat at variance with the California Water Plan as set forth in Bulletin No. 3, the Department of Water Resources believes that it is susceptible of integration with the plan. Accordingly, the Department has indicated (R.T., 10/2/57, p. 28) that it has no objection to the project and, in fact, encourages its construction provided there is coordination of planning to insure such integration. The Department of Water Resources therefore suggests that any permit granted contain a clause to the effect that:

"Project planning shall be carried on by the Permittee in cooperation with the Department of Water Resources of the State of California for the coordination of the project with respect to comprehensive development of the water resources concerned." (R.T., 10/2/57, p. 28)

Discussion

Disposition of Protests

Camp Far West Irrigation District has entered into an agreement (SSWD Exh. 3) with South Sutter which satisfies the protest of the former district by guaranteeing certain amounts of water to it should Camp Far West Reservoir be enlarged (R.T., 10/2/57, p. 40).

Nevada Irrigation District is an upstream diverter and is in a position to take water to which it is entitled before it reaches South Sutter. There is no evidence of injury to Nevada Irrigation District should permit be issued pursuant to Application 14804.

State Department of Fish and Game Exhibit 3 sets forth several conditions and recommendations for by-pass of water at the various points of diversion in the interest of maintaining fish life, which that department suggests be incorporated in any permit issued to the applicant. The applicant has accepted the terms and conditions proposed (R.T., 10/2/57, pp. 7-11).

No appearance was made by California Packing Corporation at the hearing, and no evidence was presented in support of its protest. A notice of withdrawal of its appearance in the proceedings was filed with the Board on September 6, 1957 (R.T., 10/2/57, p.2).

Unappropriated Water

The water supply available for appropriation under Application 14804 at Camp Far West Dam is (1) the flow passing the "near Auburn" gage after upstream future development under riparian rights or filings of earlier priority plus (2) the natural runoff of the watershed between that gage and Camp Far West Dam minus (3) the requirements of downstream prior rights. Should the Parker Project, as proposed by Nevada Irrigation District, be constructed, the flow available from source (1) will be of little value to South Sutter. The only time flow of any consequence will occur from that source is during the extremely wet years when the runoff from source (2) will probably be adequate for the needs of the district. Table 1 shows that for the period of published record--October, 1941 through September, 1954--considerable water naturally occurs from source (2) which to a large extent is available for development. The only rights

of record on Bear River downstream from the "near Wheatland" gage are Licenses 2496 and 2497 (Applications 5016 and 5904) of California Packing Corporation which confirm a right to a total of 13.6 cubic feet per second between February 15 and October 15 of each year for irrigation purposes. Table II indicates the estimated requirements for these downstream rights, assuming that the monthly demand is as set forth in Table 117 of Bulletin No. 2, State Water Resources Board, "Water Utilization and Requirements of California", dated June, 1955 (Staff Exh. 3), for the Yuba River diversions, and the requirements for maintenance of fish life as set forth in Fish and Game Exhibit 3.

Application 14804 seeks, in addition to seasonal storage, a direct diversion, year-round, of 360 cubic feet per second. It is apparent from Table II that unappropriated water during the summer months occurs very seldom and ordinarily the Board would feel inclined to limit the period of direct diversion. However, in view of the agreed by-pass for fish life as evidenced by Fish and Game Exhibit 3 and in view of an amendment to the application that diversion will be made during the spring months only when it is determined by the U. S. Bureau of Reclamation, in cooperation with the State of California, that a surplus exists in the Sacramento-San Joaquin delta, and that any diversion during the April through October period will be replaced by a like quantity, in the same month, into the Bear or Feather River systems through the applicant's facilities or at such other times as may be determined by mutual agreement between the applicant and the Bureau (R.T. 10/2/56, p. 76), allowance of a year-round direct diversion season will create no problem in this instance.

Conclusions

The evidence indicates and the Board finds that unappropriated water exists at times in substantial quantities in the source from which the applicant seeks to appropriate, that such water may be taken and used in substantially the manner proposed by the applicant without interference with the exercise of any prior right, that the uses to which the water is to be applied are beneficial and that the application may be approved and permit issued, if appropriately conditioned, without injury to any lawful user of water.

ORDER

Application 14804 for a permit to appropriate unappropriated water having been filed, protests having been submitted, a hearing having been held by the Board and said Board now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 14804 be, and the same is, hereby approved, and 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 to the amount which can be beneficially used and shall not exceed, A. 360 cubic feet per second by direct diversion to be diverted as follows: (a) from about March 1 to about November 1 for irrigation purposes and (b) throughout the year as required for domestic purposes and B. 95,000 acre-feet per annum by storage to be collected from about October 1 of each year to about July 1 of the succeeding year; all as more explicitly set forth in paragraph 2 of this approved application.

The equivalent of such continuous flow allowance for any 30-day period may be diverted in a shorter time if there be no interference with vested rights.

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 September 1, 1959, 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, 1962.

5. Complete application of the water to the proposed use shall be made on or before December 1, 1965.

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.

8. Permittee shall release water into Bear River channel past Camp Far West Dam 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 the surface flow under prior vested rights to the extent water would have been available for such diversions from unregulated flow.

9. Project planning shall be carried on by the permittee in cooperation with the Department of Water Resources of the State of California for the coordination of the project with respect to comprehensive development of the water resources of Bear River.

10. The permit shall be subject to the terms and conditions of the agreement between Camp Far West Irrigation District and South Sutter Water District dated August 31, 1957.

11. The Permittee, to the extent it directly or indirectly controls the operation of the structures involved, shall not divert and shall at all times by-pass the waters available to it for appropriation to the extent such water is required to provide and maintain minimum flows in the natural bed of Bear River, for the purpose of maintaining fish life, measured at a point approximately 1/4 mile below the existing Camp Far West Diversion Dam within the NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 29, T114N, R6E, as follows:

25 cubic feet per second from April 1 to June 30
of each year.

10 cubic feet per second from July 1 of each year
to March 31 of the succeeding year.

Permittee is not required by this condition to provide or maintain flows in excess of the inflows to its works or to release water it has developed by storage.

Adopted as the decision and order of the State Water Rights Board at a meeting duly called and held at Sacramento, California, on this 28th day of February, 1958.

/s/ Henry Holsinger
Henry Holsinger, Chairman

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