

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the matter of Application 15604)
by William C. Thompson to)
appropriate from Spring Creek in)
Siskiyou County)

ADOPTED JUN 2- '59

Decision No. D 933

Substance of the Application

Application 15604 was filed on November 9, 1953, for a permit to appropriate 5.5 cubic feet per second between April 1 and October 1 of each year from Spring Creek tributary to Sulloway (Wagon) Creek for irrigation purposes. The water is to be diverted at a point within the NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 20, T40N, R4W, MDB&M*, by means of a concrete diversion dam, three feet high by 20 feet long, and will be conveyed to the place of use through the Welch Ditch 11,300 feet in length. The water is to be used to irrigate 139.6 acres of pasture within Sections 20, 21, and 28, T40N, R4W.

Protests

Protests against approval of Application 15604 were received from Frank Newberry, Wilbert S. Frazier, and David Remour.

The protests are on the basis of an old appropriative right allegedly recorded in Siskiyou County Recorder's Office on

* All township references in this report are from Mount Diablo Base and Meridian (MDB&M).

April 10, 1888, in Volume 3, Water Rights, Page 48. The protestants assert that injury will result to them as they will be deprived of a water supply; that their point of diversion is located within the NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 20, T40N, R4W (same point of diversion as proposed by the applicant); and that protest may be disregarded and dismissed if "said applicant ... will agree to allow a continual flow of 80 inches of water--2 cubic feet per second--to be delivered into the Welch Ditch at his south boundary at all times from March 1 to November 30 of each year. This is to be recorded for use upon the NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 34, T40N, R4W. Present owners Frank Newberry, 15 acres; Wilbert S. Frazier, 15 acres; David Remour, 10 acres"; that such a verbal agreement was formerly made by the protestants and the former owner of the applicant's property but that no mention of such agreement is made in the present application.

Hearing Held in Accordance with the Water Code

Application 15604 was completed in accordance with the Water Code and applicable administrative rules and regulations and a public hearing under the provisions of the California Administrative Code, Title 23, Waters, was held before Henry Holsinger, Chairman, State Water Rights Board on Thursday, June 12, 1958, in Yreka, California. Of the hearing the applicant and protestants were duly notified.

Watershed

According to the United States Geological Survey Weed Quadrangle, 15 minute series, Spring Creek rises in the eastern

half of Section 17, T4ON, R4W, and flows in a southeasterly direction approximately one mile to a junction with Wagon Creek. The applicant's proposed point of diversion is to be located approximately 1/4-mile above the junction with Wagon Creek. The water will be diverted into the Welch Ditch which runs in a southeasterly direction approximately three miles to the protestants' point of diversion and place of use.

Although the watershed appears to have an area of less than 160 acres there is undoubtedly a relatively large amount of seepage within the meadow area where the creek rises so that flow should be fairly well sustained throughout the year (Staff Exhibit No. 2).

Disposition of Protests

During the course of the hearing on June 12, 1958, the applicant and protestants stipulated to an agreement which will satisfy the protests. The agreement provided that:

Between the period April 1 and October 1 of each year the applicant will maintain a sufficient flow of water in Welch Ditch at a point within the NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 21, T4ON, R4W, to provide Protestants Newberry, Remour, and Frazier a total continuous flow of 0.7 cubic foot per second at their property within the NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 34, T4ON, R4W, with the understanding that the Welch Ditch downstream from the NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of said Section 21 will be maintained by the protestants in a reasonable state of repair with a view to avoiding excessive conveyance losses (R.T. pp. 38 through 44).

Water Supply

There appears to be little, if any, hydrologic data available concerning the source of the proposed appropriation, namely, Spring Creek. However, at the time of an investigation

made by an engineer of the State Water Rights Board on July 8, 1957, the flow of Spring Creek at the applicant's proposed point of diversion was measured at 3.5 cubic feet per second (Staff Exh. 2). Inasmuch as July is usually a month of low flow and as no other protests were received from any other downstream users of water it is concluded that unappropriated water exists at times and in quantities sufficient to justify approval of Application 15604.

Conclusions

The evidence indicates and the Board finds that unappropriated water exists in Spring Creek, that the intended use proposed under Application 15604 is beneficial and that said application may be approved, if appropriately conditioned, without injury to any lawful user of water.

Order

Application 15604 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 15604 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 to be appropriated shall be limited to the amount which can be beneficially used and shall not exceed 5.5 cubic feet per second by direct diversion to be diverted from about April 1 to about October 1 of each year.

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 be completed on or before December 1, 1961.

5. Complete application of the water to the proposed use shall be made on or before December 1, 1962.

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. Between the period April 1 and October 1 of each year permittee shall maintain a sufficient flow of water in the Welch Ditch at a point within the NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 21, T40N, R4W, MDB&M, to provide lands owned by Protestants Frank Newberry, David Remour, and Wilbert Frazier a total continuous flow of 0.7 cubic foot per second at said protestants' property within the NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 34, T40N, R4W, MDB&M. This requirement is based and conditioned upon maintenance of said ditch by protestants

in a reasonable state of repair below the first described point with a view to avoiding excessive conveyance losses.

Adopted as the decision and order of the State Water Rights Board at a meeting duly called and held at Sacramento, California, on the ____ day of _____, 1959.

Henry Holsinger, Chairman

W. P. Rowe, Member

Ralph J. McGill, Member