

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

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In the Matter of Application 17639)	
by Charles T. Drummond to appropriate)	
from White Slough and an unnamed)	Decision No. D 937
stream tributary to White Slough in)	
Siskiyou County)	ADOPTED AUG 27 '59

Substance of the Application

Application 17639 was filed June 7, 1957, for a permit to appropriate a total of 126 acre-feet per annum by storage from "unnamed streams" tributary to White Slough thence Shasta River to be collected in four reservoirs between October 1 and April 1 of each season for irrigation, stockwatering and recreational purposes. The place of use consists of a total of 140 acres of pasture within Sections 19 and 20, T44N, R5W, MDB&M*. According to a map by the Department of Public Works, Division of Water Rights, entitled the "Map of Shasta River and Tributaries showing Diversion System and Irrigated Area", dated 1924, it appears that the sources involved in Application 17639 are White Slough and an unnamed stream tributary to White Slough. The water courses discussed in this decision are those shown on the afore-cited map. Pertinent information as to the location

* Hereinafter reference to lines of the Public Land Survey is from Mount Diablo Base and Meridian (MDB&M).

and description of the storage dams and reservoirs under Application 17639 is as follows:

<u>Source</u>	<u>Name</u>	<u>Location</u>	<u>Dam</u>		<u>Reservoir</u>	
			<u>Height</u>	<u>Length</u>	<u>Capacity</u>	<u>Sur-face Area</u>
White Slough	First Lake	NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 20	7 ft.	250 ft.	30 af	13 acres
White Slough	Second Lake	SW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 19	5 ft.	990 ft.	38 af	15 acres
Unnamed stream	Salt Lake	NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 29	3.5 ft.	250 ft.	48 af	16 acres
White Slough	Spring Lake	SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 20	5 ft.	200 ft.	10 af	10 acres

The dams are of earth construction and construction work is complete.

Protests

Annadite Incorporated and Frank and Dola Brahs object to the approval of the application on the grounds that the proposed appropriation will deprive them of the use of water of White Slough for stockwatering, winter irrigation and recreational purposes from October to April of each year. They contend that continuous and beneficial use has been made of the entire flow of White Slough on their lands since prior to 1900; that rights to the use of water are based upon riparian rights and appropriation made prior to December 19, 1914; that water is diverted at points within Sections 13 and 24, T44N, R6W; and that "although protestants' predecessors in interest waived the rights to the use of White Slough to the extent that the same are adjudicated in the Shasta River Decree, said waiver does not apply to

protestants' riparian right or rights to the use of water during the winter".

Answer to Protests

In answer to the protests, the applicant avers that protestants have no rights to the use of the waters of White Slough by reason of intermediate conveyance to applicant; that protestants have only a right to the use of waste water which may reach their lands; that since 1943 waters of White Slough have been diverted during each year for a considerable period of time during the winter months by applicant and his predecessor away from protestants' lands.

Field Investigation

Applicant and protestants, with the approval of the State Water Rights Board, stipulated to proceedings in lieu of hearing as provided for under Section 737 of the Board's rules, and a field investigation was conducted on March 4, 1958, by J. Victor Scammon, an engineer on the Board's staff. Applicant and protestants were present or represented at the investigation.

Records Relied Upon

Records relied upon in support of this decision are Application 17639 and all relevant information on file therewith with particular reference to the report on the aforesaid field investigation; United States Geological Survey Dwinell Reservoir Quadrangle and Yreka Quadrangle, 15-minute series, edition of

1954; Department of Public Works, Division of Water Rights, "Map of Shasta River and Tributaries showing Diversion System and Irrigated Area", dated 1924; and U. S. Weather Bureau, Climatological Summary-California with particular reference to precipitation recorded at Yreka.

Source of Water Supply

White Slough heads in the NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 20, T44N, R5W, and flows westerly for about 2.5 miles, thence northerly about 0.75 mile to a confluence with Shasta River at a point in the NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 14, T44N, R6W. The headwaters of the unnamed stream upon which Salt Lake is located is undefinable from existing maps but appears to receive the runoff from lands within the E $\frac{1}{2}$ of Sections 29 and 30, T44N, R6W. The stream joins White Slough from the south at a point within the bed of Spring Lake. The total drainage area tributary to the lowermost point of diversion, Second Lake, is about 83 square miles and the runoff is supported by numerous springs. The watershed upstream from the applicant's lakes is traversed by several ditches and canal of Big Springs Irrigation District and Montague Irrigation District.

At the time of the field investigation on March 4, 1958, all four reservoirs were full and a flow of about three cubic feet per second was observed in the channel of White Slough below Spring Lake as well as some 2.3 cubic feet per second flowing either across the protestants' lands and

discharging into White Slough or spilling directly into Shasta River at a point upstream from the protestants.

The diversion season named in the application is from October 1 to April 1 of each season. For this period, precipitation measured at Yreka, some 10 miles to the northwest of applicant's project, was 21.51 inches during the 1957-58 season. Normal precipitation recorded at Yreka for the October to April period is 16.8 inches. Flows occurring in the source during the diversion season proposed are derived principally from precipitation.

Other Matters

According to the afore-mentioned report of field investigation the main disagreement between the applicant and the protestants is not one of availability of unappropriated water but the manner in which the applicant disposes of the surplus, that is, either by diverting the excess into Shasta River at a point above the protestants or allowing it to flood across the protestants' lands rather than to confine the flow to the natural stream channel. The applicant and a representative of the protestants at the March 4, 1958 investigation indicated to the Board's engineer that much water is wasted each year from White Slough into Shasta River during the winter and early spring months. That availability of water is not the real issue is further supported by a letter dated March 12, 1958 to the Board from the protestants' attorney which states in part,

"The real objection to Drummond's activity is not the matter of water shortage but the matter of diversion during the winter and after the irrigation season ...".

Conclusions

From the foregoing information it is evident that protestants' objections to the approval of the application are directed to the methods and means whereby the applicant disposes of drainage water and surplus flows and not that protestants are deprived of a water supply sufficient for their needs or that there is no unappropriated water in the source. Those issues raised in connection with disposal of waste and drainage waters and the flooding of protestants' lands are outside of the jurisdiction of the Board in these proceedings and do not affect the merits of the application. Accordingly, the Board finds that there is unappropriated water in the source named in the application which may be taken and used by applicant in the manner proposed without interference with any prior water rights in the source covered by the application and that the application should be approved and a permit issued.

ORDER

Application 17639 for a permit to appropriate unappropriated water having been filed, protests having been received, applicant and protestants having stipulated to proceedings in lieu of hearing as provided for under Section 737 of the Board's

rules, an investigation having been held by the Board, and the Board having considered all of the available information and now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 17639 be and the same is hereby approved, and it is ordered that a permit be issued to the applicant subject to vested rights and 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 126 acre-feet per annum to be collected between October 1 and April 1 of each season, as more particularly set forth in Paragraph 4 of Application 17639.

2. The maximum amount herein stated may be reduced in the license if investigation so warrants.

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

4. 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.

5. 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 California, on this day of , 1959.

Kent Silverthorne, Chairman

W. P. Rowe, Member

Ralph J. McGill, Member