

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 17208)
by Leland J. and Dorothy M. Davis)
to Appropriate from Fresno River in)
Madera County)

Decision No. D 966

ADOPTED MAY 16 '60

DECISION APPROVING APPLICATION

Leland J. and Dorothy M. Davis having filed Application 17208 for permit to appropriate unappropriated water; protests having been received; a public hearing having been held before the State Water Rights Board conducted by Kent Silverthorne, Chairman, and Ralph J. McGill, Member, on August 11, 1959, in Madera, California, on a common record with Applications 16849, 17425, and 18273; the applicants and protestants having appeared; evidence having been received and the Board having considered same and now being fully informed in the premises finds as follows:

1. Application 17208 is for a permit to appropriate 3.0 cubic feet per second from Fresno River in Madera County between July 15 and October 20 of each year for domestic and stockwatering purposes and for irrigation of approximately 279 acres of the applicants' Awahnee Meadows Ranch.

2. Surface flow of the Fresno River does not reach the diversion dam of the protestant Madera Irrigation District

when it is less than 40 cfs as measured at the Daulton USGS Gaging Station, which is located between the protestant's diversion dam and the points of diversion under Application 17208.

3. During the 16 years of published record (1941-1957) the mean monthly flow of the Fresno River as recorded at the Daulton gage exceeded 40 cfs during the months of July through October but twice, July 1942 and July 1952, or about 3 per cent of the time.

4. There is no evidence in the record that the ground water basin underlying the lands of the protestant District is overdrawn or that any reduction in the limited seepage into that area from the river channel during the summer or fall months that may be caused by the appropriation contemplated by Application 17208 would imperil the ground water supply.

5. The maintenance of a flow of the river for the purpose of keeping the channel "charged" during the summer months, so as to aid the movement of water downstream in the late fall when the runoff increases, is not such a reasonable beneficial use of water as to justify a denial of an application to appropriate upstream for direct application of the water to irrigation, domestic, and stockwatering needs.

6. Diversions under the application will not ordinarily deplete the downstream supply so as to prohibit stockwatering by lower riparian protestants. The mean monthly flow of the river at the USGS gage near Knowles, below the applicant and in the area of these protestants, for the months of July,

August, September, and October covering the period of 1942-1957 was 24.6, 4.65, 2.69, and 6.37 cfs respectively, and the minimum mean monthly flow was 6.53, 0.49, 0.06, and 2.37 cfs respectively.

7. The Fresno River in the area of a downstream riparian complainant disperses into various channels which would require a considerable flow to effect comparatively slight benefits by subirrigation of natural grasses. In an area of water shortage this is not considered to be a reasonable method of diversion and use as required of riparian owners by the California Constitution and Water Code Section 101.

8. There is unappropriated water available to supply the applicant, and subject to suitable conditions such water may be diverted and used in the manner proposed without causing substantial injury to any lawful user of water.

9. The intended use is beneficial.

10. Applicant has commenced construction of his project.

From the foregoing findings, the Board concludes that Application 17208 should be approved and that a permit should be issued to the applicant subject to the terms and conditions set forth in the following Order.

IT IS HEREBY ORDERED that Application 17208 be and the same is approved, and that a permit be issued to the applicant subject to vested rights and to the following terms and conditions:

1. The amount of water to be appropriated shall be limited to the amount which can be beneficially

used and shall not exceed 3.0 cubic feet per second to be diverted from about July 15 to about October 20 of each year. The equivalent of such continuous flow allowance for any thirty-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 warrants.

3. Construction work shall be completed on or before December 1, 1961.

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

5. 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.

6. 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 the 16th day of May, 1960.

Kent Silverthorne, Chairman

W. P. Rowe, Member

Ralph J. McGill, Member

