

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Applications 18027,)
18028, and 18029 of John A. Jacobsen)
to Appropriate from Jackass Creek,)
North Fork Cosumnes River, and)
Butte Creek, respectively, in)
El Dorado County)

Decision D 999

ADOPTED APR 10 '61

DECISION APPROVING APPLICATIONS IN PART

John A. Jacobsen having filed Applications 18027, 18028, and 18029 for permits to appropriate unappropriated water; protests having been received; the applicant and protestants having stipulated to proceedings in lieu of hearing as provided for by Title 23, California Administrative Code, Section 737; an investigation having been made by the State Water Rights Board pursuant to said stipulation; the Board, having considered all available information and now being fully advised in the premises, finds as follows:

1. Application 18027 is for a permit to appropriate 1.25 cubic feet per second from Jackass Creek in El Dorado County, year-round, for irrigation, domestic, and stockwatering purposes within Sections 2, 3, 10, and 11, T9N, R12E, MDB&M.

2. Application 18028 is for a permit to appropriate 2.5 cubic feet per second from North Fork Cosumnes River in El Dorado County, year-round, for irrigation,

domestic, and stockwatering purposes within Sections 2, 3, 10, and 11, T9N, R12E, MDB&M.

3. Application 18029 is for a permit to appropriate 2.5 cubic feet per second, year-round by direct diversion and 90 acre-feet per annum by storage from November 1 to June 1 of each season, from Butte Creek in El Dorado County.

4. Applicant's point of diversion on Jackass Creek under Application 18027 is approximately 2,000 feet above the confluence of Jackass Creek and the North Fork Cosumnes River. Applicant's point of diversion on the North Fork Cosumnes River under Application 18028 is three-quarters of a mile above this junction. Applicant's points of diversion on Butte Creek under Application 18029 are approximately one-half mile from Butte Creek's confluence with North Fork Cosumnes River, which is approximately one-half mile above the Jackass Creek-North Fork junction.

5. Cosumnes Irrigation Association, protestant to all of the applications, diverts from the Cosumnes River approximately thirty miles downstream from the applicant's points of diversion. It holds License 2629 for 12.5 cubic feet per second and claims pre-1914 appropriative and riparian rights. Its maximum mean monthly diversion has been 25 cubic feet per second.

6. J. D. Granlees, protestant to all the applications, diverts from the same point of diversion as the Cosumnes Irrigation Association under claimed pre-1914 appropriative rights, riparian rights and License 537 for 2 cubic feet per second. His use is for stockwatering

and irrigation of 800 acres and is included in the 25 cubic feet per second used by Cosumnes Irrigation Association.

7. E. Clemens Horst, protestant to all the applications, diverts from wells located along the channel of the Cosumnes River at a point below the other protestants under claimed riparian and pre-1914 appropriative rights for the irrigation of 160 acres.

8. The Department of Fish and Game withdrew its protest filed against Applications 18028 and 18029 following a stipulation by applicant that any permit issued pursuant to Application 18028 would contain a clause requiring the permittee to release past the point of diversion 5 cubic feet per second or the natural flow, whichever is less, between January 1 and December 31, and that any permit issued pursuant to Application 18029 would contain a clause requiring permittee to release past the point of diversion 0.25 cubic foot per second, or the natural flow, whichever is less, from January 1 to December 31.

9. At the time of the field investigation made on March 16, 1960, the flow of Jackass Creek near the applicant's point of diversion was approximately 2 cubic feet per second and the flow of Butte Creek near the applicant's point of diversion, 3.5 cubic feet per second. There are no flows in these two streams during the months of August and September and, in most years, during the month of July. Such flows as occur during the month of July make no significant

contribution to the supply of water available to the protestants located on the Cosumnes River; therefore, the granting of Applications 18027 and 18029 will not interfere with the rights of protestants

10. The monthly mean flows of the North Fork Cosumnes River as computed from the records of the El Dorado gaging station and the monthly mean flows of the Cosumnes River as computed from the records of the Michigan Bar and McConnell gaging stations indicate that there is unappropriated water to satisfy Application 18028 from October 1 of each year to July 1 of the following year and, in some years, through July 31 of the following year.

11. During the years when there is no surplus water in July, the natural flow of the North Fork Cosumnes River at applicant's point of diversion falls below 5 cubic feet per second. The release of this amount, or the natural flow, for the preservation of fish life will insure that the protestants will not be adversely affected by an appropriation from this source during July.

12. There is unappropriated water available to supply the applicant, providing the season of direct diversion under Applications 18027 and 18028 and the season of direct diversion and storage under Application 18029 are limited to a period between about October 1 of each year to about July 31 of the succeeding year. Subject to suitable conditions, such water may be used in the amount proposed without causing substantial injury to any lawful user of water.

13. The intended use is beneficial.

From the foregoing findings, the Board concludes that Applications 18027, 18028, and 18029 should be approved, and that permits should be issued to the applicant subject to the terms and conditions set forth in the following Order.

The records, documents, and other data relied upon in determining the matter are Applications 18027, 18028, 18029, and 18827, and all relevant information on file therewith, particularly report of field investigation made on March 16, 1960, the United States Geological Survey maps of the area in question, United States Geological Survey Water Supply Papers, Part 11, "Pacific Slope Basins in California," "Water Conditions in California," and also "Report of Sacramento-San Joaquin Water Supervision," both published by the State of California, Department of Water Resources and its predecessor, the Division of Water Resources.

IT IS HEREBY ORDERED that Applications 18027, 18028, and 18029 be, and the same are, approved, and that permits be issued to the applicant subject to vested rights and the following terms and conditions.

1. The amount of water to be appropriated under Application 18027 shall be limited to the amount which can be beneficially used and shall not exceed 1.25 cubic feet per second to be diverted from about October 1 of each year to about July 31 of the succeeding year. The continuous flow allowance of any 30-day period may be diverted in a shorter time if there be no interference with vested rights.

2. The amount of water to be appropriated under Application 18028 shall be limited to the amount which can be beneficially used and shall not exceed 2.5 cubic feet per second to be diverted from about October 1 of each year to about July 31 of the succeeding year. The equivalent of such continuous flow allowance may be diverted in a shorter time if there be no interference with vested rights.

3. The amount of water to be appropriated under Application 18029 shall be limited to the amount which can be beneficially used and shall not exceed 2.5 second feet by direct diversion from about October 1 of each year to about July 31 of the succeeding year and 90 acre-feet per annum by storage to be collected from about November 1 of each year to about June 1 of the succeeding year. 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.

4. Permittee shall continuously bypass not less than 5 cubic feet per second, or the natural flow of the North Fork Cosumnes River when less than 5 cubic feet per second, and shall continuously bypass not less than 0.25 cubic foot per second, or the natural flow of Butte Creek when less than 0.25 cubic foot per second for the preservation and enhancement of fish life.

5. The maximum amounts herein stated may be reduced in the licenses if investigation warrants.

6. Actual construction work shall begin on or

before September 1, 1961, and thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked.

7. Said construction work shall be completed on or before December 1, 1963.

8. Complete application of the water to the proposed use shall be made on or before December 1, 1964.

9. 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.

10. 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.

11. A separate application for the approval of plans and specifications for construction of Butte Creek Lower Dam proposed under Application 18029 shall be filed with, and approved by the Department of Water Resources prior to commencement of construction of the dam described under this approved water right application.

12. In accordance with requirements of Water Code Section 1393, permittee shall clear the site of the proposed Butte Creek Lower Reservoir of all structures, trees, and other vegetation which would interfere with the use of the

reservoir for water storage and recreational purposes.

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 , 1961.

Kent Silverthorne, Chairman

Ralph J. McGill, Member