

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 18462 of
Allen E. and Harriet M. Peterson to
Appropriate from an Unnamed Stream
Tributary to Bear Creek and an Unnamed
Stream Tributary to Skull Flat Creek
in Calaveras County

Decision D 1012

ADOPTED JUL 19 '61

DECISION APPROVING APPLICATION

Allen E. and Harriet M. Peterson having filed Application 18462 for a permit to appropriate unappropriated water; a protest having been received; the applicants and protestant 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 18462 is for a permit to appropriate 0.25 cubic foot per second (cfs) by direct diversion from June 1 to September 30 of each year and 10 acre-feet per annum by storage from December 1 of each year to April 1 of the succeeding year for irrigation, stockwatering, and recreational purposes. The proposed diversions are from two unnamed streams, one tributary to Bear Creek and the other tributary to Skull Flat Creek. These creeks are tributary to the Mokelumne River system and are located in Calaveras County. The points of diversion are to be

located within the SW $\frac{1}{4}$ of SE $\frac{1}{4}$ and the SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 25, T7N, R13E, MDB&M.

2. Applicants' points of diversion for storage on the unnamed stream tributary to Bear Creek are located at two existing small dams approximately 0.5 mile above its junction with Bear Creek. The applicants' point of direct diversion is at the lowermost dam.

3. Applicants' point of diversion for storage on the unnamed stream tributary to Skull Flat Creek is located at an existing small dam approximately 0.5 mile above its junction with Skull Flat Creek.

4. East Bay Municipal Utility District protests the application on the grounds that the proposed appropriation will interfere with its rights under permits and license to appropriate from Mokelumne River for its existing Pardee and proposed Camanche projects, located approximately 25 miles downstream from the applicants' project.

5. The applicants' reservoirs were full at the time of a field investigation on April 26, 1960. A spring is the main source of supply for the direct diversion portion of the application.

6. A combined operation study of the Camanche and Pardee projects shows that unappropriated water would have been available for appropriation by applicant over 50 per cent of the time during the 49 years of study. This study assumed prior satisfaction of ultimate upstream demands, including reservations for counties of origin, maximum diversions under downstream rights, and a maximum continuous diversion of 504 cubic feet per second by the protestant which it is estimated will occur approximately 40 years hence. During the extended interim period pending these ultimate uses, additional water will be available to satisfy the application.

7. The sources named in the application depend largely on small springs, and, except during winter storms, it is questionable whether their waters contribute to the protestant's supply.

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

9. The intended use is beneficial.

From the foregoing findings, the Board concludes that Application 18462 should be approved and that a permit should be issued to the applicants subject to the limitations and conditions set forth in the following Order.

The records, documents, and other data relied upon in determining the matter are: Application 18462 and all relevant information on file therewith, particularly the report of the field investigation made April 26, 1960, Board Decision D 858 and studies in connection therewith in the matter of certain applications by Calaveras County Water District, North San Joaquin Water Conservation District, and East Bay Municipal Utility District to appropriate from the Mokelumne River, and U. S. Geological Survey Quadrangles of the area in question.

IT IS HEREBY ORDERED that Application 18462 be, and the same is, approved, and that a permit be issued to the applicants subject to vested rights and to the following limitations and conditions:

1. The amount of water to be appropriated shall be limited to the amount which can be beneficially used. Direct diversion from the unnamed stream tributary to Bear Creek shall not exceed 0.25 cubic foot

per second to be diverted between about June 1 and about September 30 of each year. Diversion to storage from the two unnamed streams tributary to Bear Creek and Skull Flat Creek shall not exceed a total of 10 acre-feet per annum, to be collected from about December 1 of each year to about April 1 of the succeeding year.

The equivalent of the continuous flow allowance of 0.25 cubic foot per second 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. Complete application of the water to the proposed use shall be made on or before December 1, 1964.

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 Sacramento, California, on the day of , 1961.

Kent Silverthorne, Chairman

Ralph J. McGill, Member

W. A. Alexander, Member