

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 19003)
of Melford and Sylvia Olson to)
Appropriate from an Unnamed Stream)
Tributary to Bear River in Nevada County)

Decision D 1016

ADOPTED JUN 30 '61

DECISION APPROVING APPLICATION

Melford and Sylvia Olson having filed Application 19003 for a permit to appropriate unappropriated water; 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 19003 is for a permit to appropriate 1,000 gallons per day by direct diversion, year-round, for domestic purposes from an unnamed stream, tributary to Bear River in Nevada County. The point of diversion is to be located within the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 32, T14N, R8E, MDB&M.

2. The applicants' diversion system is constructed and in use. They pump from a sump in the channel of the unnamed stream approximately 15 feet below the lowermost of two onstream reservoirs on the property of protestant C. F. Roberts.

3. The source of the water available to the applicants at their point of diversion is principally seepage from the protestant's reservoirs along with a possible contribution from springs. Its flow was approximately 0.021 cubic foot per second, or approximately 10 gallons per minute, on March 10, 1960, and exists year-round.

4. Protestant uses the water in the reservoirs for fishing, recreational, and stockwatering purposes and makes no use of water downstream from the applicants' point of diversion. His protest is directed only to an alleged lack of access on the part of the applicants to their point of diversion.

5. A deed executed August 19, 1954, which conveys from the applicants to the protestant and his wife the property on which the applicants' pump and pipeline are located contains a reservation of an easement for such a project. The protestant contends that the applicants' diversion works are not located so as to be covered by the easement. This dispute is not within the jurisdiction of the Board.

6. The applicants have made a sufficient showing of right of access to justify the issuance of a permit. The final determination of this question, unless otherwise resolved by the parties, must be made by a court of competent jurisdiction. The permit will contain a special clause stating that the granting of the permit shall not be construed as conferring upon the permittees the right of access to the point of diversion.

7. There is unappropriated water available to supply the applicants, 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.

8. The intended use is beneficial.

From the foregoing findings, the Board concludes that Application 19003 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 19003 and all relevant information on file therewith, particularly the report of the field investigation made March 10, 1960, and United States Geological Survey (USGS) quadrangle, "Lake Combie," 7½-minute series, dated 1950.

IT IS HEREBY ORDERED that Application 19003 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 and shall not exceed 1,000 gallons per day by direct diversion to be diverted year-round.

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, 1963.

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.

6. The issuance of this permit shall not be construed as conferring upon permittees' right of access to the point of diversion.

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