

STATE OF CALIFORNIA  
STATE WATER RIGHTS BOARD

In the Matter of Applications 18291,  
18551, and 18590 of James L. Murphy  
and Others to Appropriate from  
Shirrtail Canyon and Nine Tributaries  
(Brimstone Creek, Cottage Home Creek,  
Mill Creek, Temperance Creek, Kent  
Creek, Blackhawk Canyon, Second Brushy  
Canyon, First Brushy Canyon and Devils  
Canyon Creek) in Placer County

Decision D 1082

**ADOPTED APR 11 '62**

DECISION APPROVING APPLICATION 18291  
AND APPROVING IN PART APPLICATIONS 18590 AND 18551

Menlo Investment Company having filed Application 18291 on August 27, 1958, and assigned the same to James L. Murphy and others on August 5, 1959; Foresthill Public Utility District having filed Application 18551 on February 24, 1959; Stockton Box Company, a corporation, having filed Application 18590 on March 12, 1959, all applications being for permits to appropriate unappropriated water; protests having been received; due notice having been given to the applicants and protestants, a public hearing was held before the State Water Rights Board in Sacramento on July 19, 1961, before Chairman Kent Silverthorne and Member Ralph J. McGill, at which time the parties appearing offered evidence. The Board, having considered all of the evidence and now being fully advised in the premises, finds as follows:

1(a) Application 18291 by James L. Murphy, William F. Sharon, and Paul Bancroft, Jr., Trustees, as amended, is for a permit to appropriate by direct diversion from Shirttail Canyon and eight tributaries the quantities set forth in the following tabulation, but not to exceed a total of 12.5 cfs at any one time, and 2,000 acre-feet per annum by storage from Brimstone Creek, to be diverted and collected from November 1 of each year to May 1 of the succeeding year for irrigation and domestic uses.

<u>Source</u>	<u>Points of Diversion*</u>	<u>Amount</u> cfs
Brimstone Creek	SE $\frac{1}{4}$ of SW $\frac{1}{4}$ , Sec. 5, T14N, R11E	5
Shirttail Canyon	SE $\frac{1}{4}$ of NW $\frac{1}{4}$ , Sec. 8, T14N, R11E	3
Cottage Home Creek	NE $\frac{1}{4}$ of SW $\frac{1}{4}$ , Sec. 6, T14N, R11E	2
Mill Creek	NW $\frac{1}{4}$ of SE $\frac{1}{4}$ , Sec. 7, T14N, R11E	4
Temperance Creek	SW $\frac{1}{4}$ of SE $\frac{1}{4}$ , Sec. 7, T14N, R11E	3
Kent Creek	NW $\frac{1}{4}$ of NW $\frac{1}{4}$ , Sec. 18, T14N, R11E	2
Blackhawk Canyon	NW $\frac{1}{4}$ of SW $\frac{1}{4}$ , Sec. 13, T14N, R10E	2
Second Brushy Canyon	SE $\frac{1}{4}$ of SE $\frac{1}{4}$ , Sec. 23, T14N, R10E	3
First Brushy Canyon	SW $\frac{1}{4}$ of NW $\frac{1}{4}$ , Sec. 26, T14N, R10E	2

\*All references are from the Mount Diablo Base and Meridian

(b) Application 18551 by Foresthill Public Utility District is for a permit to appropriate 1.0 cfs year-round from Mill Creek by direct diversion for municipal purposes. The point of diversion is to be located within the NE $\frac{1}{4}$  of NW $\frac{1}{4}$  of Section 17, T14N, R11E, MDB&M.

(c) Application 18590 by Stockton Box Company is for a permit to appropriate 0.89 cfs by direct diversion year-round and for 18.1 acre-feet per annum by storage to be collected between December 1 and June 1 of each season from Devils Canyon Creek for industrial and incidental domestic use. The point of diversion is located within the NE $\frac{1}{4}$  of NE $\frac{1}{4}$  of Section 34, T14N, R10E, MDB&M.

2. The named sources are all within the American River Basin and the described points of diversion are from 6 to 10 miles upstream from the junction of Shirttail Canyon with North Fork American River. The flow in all of the various streams is a substantial amount until about May 1. Thereafter, flows decrease sharply until midsummer and do not increase until the late fall.

3. Consumptive uses on the American River below Folsom Dam and in the Delta and water for fish conservation and Delta salinity control require the full flow of the American River during the months of July through October.

4. Water is available for appropriation in the named sources during the months of November through June.

5. With respect to Application 18551, the applicant has cleared vegetation from the canyon of Mill Creek above the proposed point of diversion and has installed a horizontal collection box near the headwaters of Mill Creek, all of which has increased the flow of the creek at the proposed point of diversion.

6. The applicants under Application 18291, pursuant to stipulation with the California Department of Fish and Game, have agreed to release or bypass at all times into the channel of Brimstone Creek either the natural flow or 2 cfs, whichever is less, in order to maintain fish life and further agreed by oral stipulation with Foresthill Public Utility District to subordinate their priority to that of Application 18551 (RT 23).

7. The intended uses are beneficial.

8. The dams and diversion works described in Applications 18551 and 18590 have been completed.

From the foregoing findings, the Board concludes that Application 18291 should be approved and that Applications 18551 and 18590 should be approved in part and that permits should be issued to the applicants subject to the limitations and conditions set forth in the following Order.

IT IS HEREBY ORDERED that Application 18291 be, and it is, approved, and that Applications 18551 and 18590 be, and they are, approved in part, and that permits be issued to the applicants subject to vested rights and to the following limitations and conditions:

1(a) The amount to be appropriated pursuant to Application 18291 shall be limited to 5 cfs from Brimstone Creek, 3 cfs from Shirttail Canyon, 2 cfs from Cottage Home Creek, 4 cfs from Mill Creek, 3 cfs from Temperance Creek, 2 cfs from Kent Creek, 2 cfs from Blackhawk Canyon, 3 cfs from Second Brushy Canyon, and 2 cfs from First Brushy Canyon but not to exceed a total of 12.5 cubic feet per second from all named sources by direct diversion and 2,000 acre-feet per annum by storage from Brimstone Creek to be diverted and collected beginning about November 1 of each year to about May 1 of the succeeding year.

(b) The quantity to be appropriated pursuant to Application 18551 shall be limited to the amount which can be beneficially used and shall not exceed 1.0 cubic foot per second by direct diversion year-round, provided that diversion during the period from about July 1 to about November 1 of each year,

pursuant to permit, shall be limited to such quantity as the permittee develops and salvages by the use of collection galleries installed at the head of Mill Creek and the removal of phreatophytic vegetation in Mill Creek Canyon.

(c) The amount to be appropriated pursuant to Application 18590 shall be limited to the amount which can be beneficially used and shall not exceed 0.89 cubic foot per second by direct diversion to be diverted from about November 1 of each year to about June 30 of the succeeding year and 18.1 acre-feet per annum by storage to be collected from about December 1 of each year to about June 1 of the succeeding year.

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

3. Actual construction work proposed under Application 18291 shall begin on or before December 1, 1962, and thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, the permit may be revoked.

4. Construction work shall be completed on or before

- (a) December 1, 1967 under Application 18291
- (b) December 1, 1964 under Application 18551
- (c) December 1, 1964 under Application 18590

5. Complete application of the water to the proposed uses shall be made on or before

- (a) December 1, 1973 under Application 18291
- (b) December 1, 1965 under Application 18551
- (c) December 1, 1965 under Application 18590

6. Progress reports shall be filed promptly by permittees on forms which will be provided annually by the State Water Rights Board until licenses are issued.

7. All rights and privileges under these permits, including method of diversion, method of use, and quantities 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.

8. Permittees shall allow representatives of the State Water Rights Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of the permits.

IT IS FURTHER ORDERED that the following additional conditions be included in the permit issued pursuant to Application 18291:

1. Permittees shall, during the period November 1 to May 1, bypass a minimum flow of 2 cfs or the natural flow of the stream, whenever it is less than 2 cfs at the point of diversion on Brimstone Creek and also at the diversion structure on Shirttail Canyon, to maintain fish life.

2. Pursuant to agreement of the parties, this permit is junior to any right which may be acquired by Foresthill Public Utility District under Application 18551.

3. Permittees shall install and maintain an outlet pipe of adequate capacity in the storage dam as near as practicable

to the bottom of the natural stream channel or provide other means satisfactory to the State Water Rights Board in order that water entering the reservoir or collected in the reservoir during and after the current storage season may be released into the downstream channel to the extent necessary to satisfy downstream prior rights and to the extent that appropriation of said water is not authorized under this permit.

4. Permittees shall install and maintain suitable measuring devices above the high water elevation of their reservoir and immediately below the storage dam in order that accurate measurement may be made of the rate at which water is flowing into and out of said reservoir.

5. This permit does not authorize collection of water to storage during the period from about May 1 to about October 31 of each year to offset evaporation and seepage losses or for any other purpose.

6. A separate application for the approval of plans and specifications for construction of a dam shall be filed with and approved by the Department of Water Resources prior to commencement of construction of the dam described in this approved water right application.

7. In accordance with the requirements of Water Code Section 1393, permittees shall clear the site of the proposed reservoir of all structures, trees, and other vegetation which would interfere with the use of the reservoir for water storage and recreational purposes.



IT IS FURTHER ORDERED that the following additional condition be included in the permit issued pursuant to Application 18590:

1. This permit does not authorize collection of water to storage during the period from about June 1 to about December 1 to offset the evaporation and seepage losses or for any other purpose.

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                      , 1962

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Kent Silverthorne, Chairman

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Ralph J. McGill, Member

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W. A. Alexander, Member