

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

1086

In the Matter of Application 19466)
of Floyd J. White and Hazel L. White)
to Appropriate from Hobart Creek)
in Trinity County)

Decision D 1086

ADOPTED JUN 26 '62

DECISION APPROVING APPLICATION

Floyd J. White and Hazel L. White having filed Application 19466 for a permit to appropriate unappropriated water; protests having been received; a public hearing having been held before the State Water Rights Board on August 1, 1961, in Weaverville, California, before Chairman Kent Silverthorne, at which time the parties appeared; evidence having been received and the Board, having considered the same and now being fully advised in the premises, finds as follows:

1. Application 19466 is for a permit to appropriate one-tenth (0.1) cubic foot per second (cfs) by direct diversion, year-round, from Hobart Creek, tributary to the Mad River, in Trinity County. The point of diversion is to be located within the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$, Section 2, T2S, R7E, HB&M. The water would be used for domestic purposes by the applicants and by occupants of up to 25 summer cabins to be built on applicants' present property and also for irrigation of several acres.

2. The surface flow of Hobart Creek immediately upstream from its junction with the Mad River dries up during the months

of September and October in many years. However, the applicants' proposed point of diversion is located farther upstream where there is year-round flow (RT 23).

3. Hobart Creek enters the Mad River at a point to be flooded by Ruth Reservoir, which is now being constructed to its first-stage capacity by protestant Humboldt Bay Municipal Water District, herein referred to as the District.

4. The District's protest is based on interference with its rights under Permits 11714 and 11717 (Applications 16454 and 17291) to appropriate to storage in Ruth Reservoir not to exceed a total of 120,000 acre-feet per annum (afa), to be released for rediversion 70 miles downstream at Essex Diversion Dam. A year-round direct diversion of 200 cfs is also authorized at Essex. Both diversion to storage and direct diversion are subject to releases of water to be made for preservation of fish.

5. Ruth Dam and Reservoir are now being constructed to an initial-stage capacity of 52,000 acre-feet. A 32-year operating study made for the District indicates that the water to be stored by said initial-stage dam together with downstream inflow will produce a firm yield at Essex Diversion Dam of 115 cfs over and above releases to be made for fish (District Exh. 7). In only one year out of 32 (the water year 1923-24) would there have been no spill at Ruth Dam, and in that year holdover storage plus direct diversion would have supplied 84,000 acre-feet to the District at Essex. This equals the maximum supply shown by the study in any of the 32 years to be utilized by the District and its customers.

6. At present the District has requirements and contractual commitments which need a total diversion of 77 cfs, year-round, at Essex. While testimony for the District indicated that the full 115 cfs firm yield of the first-stage development might be required in the near future, no estimate was made as to when this yield would probably be fully utilized, since this depends on possible future contracts and on possible additional industrial growth requiring large-scale water consumption. The testimony leaves the building of Ruth Dam to its full authorized impounding capacity a matter of conjecture.

7. The 120,000 afa authorized to be stored in Ruth Reservoir exceeds the initial-stage construction of 52,000 acre-foot capacity by 68,000 acre-feet. The District's initial-stage operating study shows that Ruth Dam's spill would exceed 68,000 afa in 25 out of 32 years. The 32-year annual averages include 83,600 af diverted at Essex for water supply; 42,000 af released at Essex for preservation of fish; and an additional 792,400 af of spill at Essex (District Exh. 7).

8. The District indicated concern not for the subject application but for the possibility that many comparable applications might be filed with a possible cumulative impact on the District's project. The District requested that any permits issued on all such applications be subject to the requirement that no water be appropriated in any year unless and until Ruth Reservoir storage rights of the District be fully satisfied. Such a requirement would result in much water being wasted into the ocean

and is not reasonably required or justified in the light of this record.

9. 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.

10. The intended use is beneficial.

From the foregoing findings, the Board concludes that Application 19466 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.

IT IS HEREBY ORDERED that Application 19466 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 appropriated shall be limited to the amount which can be beneficially used and shall not exceed one-tenth (0.1) cubic foot per second by direct diversion to be diverted between January 1 and December 31 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. Actual construction work shall begin on or before December 1, 1962, and thereafter be prosecuted with

reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked.

4. Construction work shall be completed on or before December 1, 1964.

5. Complete application of the water to the proposed use shall be made on or before December 1, 1965.

6. 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.

7. 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.

8. Permittee 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 this permit.

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.

Kent Silverthorne, Chairman

Ralph J. McGill, Member

W. A. Alexander, Member