

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

ADOPTED FEB 21 1963

In the Matter of Application 20281
of Alvin V. and Loretta J. Bird
to Appropriate from Webber Creek
in El Dorado County

Decision D 1111

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DECISION APPROVING APPLICATION IN PART

Alvin V. and Loretta J. Bird having filed Application 20281 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 20281 is for a permit to appropriate 0.05 cubic foot per second (cfs) by direct diversion from May 1 to October 31 of each year for irrigation, stockwatering, and domestic purposes from Webber Creek in El Dorado County. The point of diversion is to be located within the $SE\frac{1}{4}$ of $NW\frac{1}{4}$ of Section 14, T10N, R10E, MDB&M.
2. The applicants' point of diversion is located approximately 13 miles upstream from the confluence of Webber Creek and the South Fork American River.

3. Webber Creek is a perennial stream and in most years it contributes to the South Fork American River year-round. On May 22, 1962, its flow at the applicants' point of diversion was approximately 3 cfs.

4. Existing rights on the American River and in the Sacramento-San Joaquin Delta require the entire flow of the American River and its tributaries during the months of July through October in most years.

5. The only protestants to the application, Jerry H. and Lois C. Brown, have no objection to its approval for the months of May and June.

6. There is unappropriated water available to supply the applicants from about May 1 to about June 30 of each year, and, subject to suitable conditions, such water may be diverted and used in the manner proposed during those times without causing injury to any lawful user of water. There is no unappropriated water to supply the applicants from about July 1 to about October 31 of each year.

7. The intended uses are beneficial.

8. The applicants claim a riparian right to serve the place of use designated in the application from Webber Creek. The permit should contain a term stating that water diverted under the permit shall not be in addition to such water, if any, as the permittees may be entitled to use from the same source on the place of use authorized by this permit by virtue of a riparian or other right.

From the foregoing findings, the Board concludes that Application 20281 should be approved in part 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 20281 and all relevant information on file therewith, particularly the report of the field investigation made May 22, 1962; files of Application 19632; Decisions D 893, D 990, and D 1082 of the State Water Rights Board; USBR Exhibits 164 and 164-A received in evidence at hearing on Applications 5625, etc., of USBR to appropriate from the Sacramento River and other sources, and "Report on 1956 Cooperative Study Program," Volumes 1 and 2 and supplements.

IT IS HEREBY ORDERED that Application 20281 be, and the same is, approved in part, 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 0.05 cubic foot per second by direct diversion to be diverted from about May 1 to about June 30 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 September 1, 1963, and shall 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, 1965.

5. Complete application of the water to the proposed use shall be made on or before December 1, 1966.

6. Progress reports shall be filed promptly by permittees 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. Water diverted under this permit shall not be in addition to such water, if any, as permittees may be entitled to use from the same source on the place of use authorized by this permit by virtue of a riparian or other right.

9. 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 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 , 1963.

Kent Silverthorne, Chairman

Ralph J. McGill, Member

W. A. Alexander, Member