

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Applications 16726,)
16727, 16728, 16729, and 17299 of)
Placer County Water Agency to)
Appropriate from Auburn Ravine,)
Coon Creek, Doty Ravine, and)
Pleasant Grove Creek, Respectively,)
in Placer County)

ADOPTED APR 4 1963

Decision D 1125

DECISION VACATING D 1083 AND
APPROVING APPLICATIONS 16726 AND 16729

Hearing

Applications 16726, 16727, 16728, 16729, and 17299 were completed in accordance with the Water Code and applicable administrative rules and regulations. Protests having been filed, a public hearing under the provisions of the California Administrative Code, Title 23, "Waters," was held before the State Water Rights Board (hereinafter referred to as the Board) on January 19, 1961, before Member Ralph J. McGill and on September 26, 1961, before Member William A. Alexander. The applicants, protestants, and other interested parties were duly notified of all sessions of the hearing.

Decision and Reconsideration

On April 11, 1962, the Board adopted Decision D 1083 which denied Applications 16726, 16727, 16728, 16729, and 17299.

On May 10, 1962, a petition for reconsideration and rehearing was filed by the applicant. On May 16, 1962, the Board ordered that Decision D 1083 be reconsidered and that a further hearing be held to receive additional evidence in the matter.

Further hearings were held on the applications in Sacramento on May 23 and on July 17, 1962, before Board Members Kent Silverthorne (Chairman), Ralph J. McGill, and William A. Alexander.

During the further hearing on July 17, 1962, the applicant withdrew its Applications 16727, 16728, and 17299.

Substance of the Remaining Applications

Application 16726 is for a permit to appropriate 35 cubic feet per second (cfs) by direct diversion and 25,800 acre-feet per annum (afa) by storage, both from November 1 of each year to May 1 of the succeeding year, for irrigation, domestic, and stockwatering purposes from Auburn Ravine in Placer County. The point of diversion is to be located within the SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 11, T12N, R7E, MDB&M.

Application 16729 is for a permit to appropriate 100 cfs by direct diversion and 32,800 afa by storage, both from November 1 of each year to May 1 of the succeeding year, for irrigation and domestic purposes from Coon Creek in Placer County. The point of diversion is to be located within the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 17, T13N, R7E, MDB&M.

Applicant's Project

The applicant's proposed reservoirs are to be constructed on the upper reaches of Auburn Ravine and Coon Creek at sites contemplated by the Department of Water Resources plan for the ultimate development and utilization of water in Placer County. The Auburn Ravine reservoir will have a capacity of 11,700 acre-feet and the Coon Creek reservoir will have a capacity of 59,000 acre-feet. These reservoirs will conserve local winter runoff which now eventually reaches the Sacramento River system through drains and will also serve as re-regulatory reservoirs for water diverted from the American River through the Auburn diversion tunnel upon the construction of the applicant's Middle Fork American River Project, the subject of other applications recently approved by the Board. Water is to be used to meet projected urban and irrigation uses in western Placer County within an area of approximately 80,000 acres. The operation of these reservoirs is to be coordinated with the applicant's Middle Fork Project as a part of Unit C of that development. The reservoirs will be financed by excess power revenues from the Middle Fork Project and from water sale contracts.

Plans for Commencement of Construction Completion of Construction, and Application of Water to Beneficial Use

The Board, in its Decision D 1083, made a finding that the applicant had failed to furnish the Board with sufficient

persuasive information upon which the Board could rely in determining the periods of time for the commencement of construction, completion of construction, and the application of the water to beneficial use, which are required to be included in permits to appropriate water pursuant to Division 2 of the Water Code. It also made a finding that the applicant was not presently prepared to undertake construction of the works proposed by the applications nor did it plan to initiate action leading toward their construction at any definite time in the future. From the foregoing and other findings, the Board concluded that the applications should be denied and so ordered.

On July 17, 1962, during the rehearing held on the applications, the applicant presented testimony that it intended to commence construction of its Coon Creek reservoir contemplated by Application 16729 by the year 1970 and that the construction of its Auburn Ravine reservoir contemplated by Application 16726 would be commenced by the year 1975. It also estimated that the construction work on the Coon Creek reservoir would be completed by the year 1973, on the Auburn reservoir by the year 1978, and that water would be completely applied to beneficial use from both reservoirs by the year 1985.

The foregoing schedule resulted from a further study by the applicant of projected needs for water in western Placer County.

The Board made a finding in Decision D 1083 that the applicant planned to devote all of its resources toward the development of other projects. It has now been shown that funds will be available for the construction of these reservoirs from local water service contracts as well as from possible excess revenues from its American River Project. The existence of supplemental water from the American River Project will encourage anticipated development in the area and sale of water covered by these applications through such contracts.

Decision D 1083 emphasized that an application to appropriate water is not a proper instrument to make a reservation of water for development at an uncertain time in the future. However, in order to overcome any such objection to the approval of the applications that may remain in the light of additional evidence furnished the Board, the applicant has suggested inclusion of the following term in any permits to be issued pursuant to the applications:

"The rights under this permit shall be subject and subordinate to lawful rights of others to appropriate water for beneficial use within Placer County under applications filed after the date of priority of this permit to the extent that use under any such application is initiated prior to commencement of construction under this permit, provided that this condition shall not preclude permittee from protesting and opposing any such application in accordance with administrative rules and requirements on grounds other than priority of this permit."

The substance of this term should be included in permits issued pursuant to Applications 16726 and 16729 except that it should not be limited to appropriations of water for beneficial use within Placer County but should extend to appropriations within the watersheds of Auburn Ravine and Coon Creek.

Availability of Unappropriated Water

The estimated annual runoff which will enter Coon Creek and Auburn Ravine reservoirs is 32,800 and 15,800 acre-feet, respectively. The maximum runoff is estimated to be approximately twice the average runoff. Most of this runoff occurs during the diversion season specified in Applications 16726 and 16729 which is a period when there is unappropriated water in the Sacramento River and other sources to which Coon Creek and Auburn Ravine are tributary.

There is unappropriated water available to supply the applicant, 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.

Disposition of Protests

Protestant Department of Fish and Game entered into a written stipulation (PCWA Exh. No. 10) whereby the Department agreed to the withdrawal of its protest provided that the applicant release into the natural streambed below its reservoirs a flow of 5 cfs or the natural flow reaching the reservoirs,

whichever is less, for the preservation and enhancement of the fishery resources involved. These flows are necessary and in the public interest and will be provided for in the permits to be issued pursuant to both applications.

Protestant Nevada Irrigation District entered into a written stipulation (PCWA Exh. No. 9) with the applicant, dated January 13, 1961, whereby it agreed to the withdrawal of its protest provided that certain conditions and limitations be included in any permits or licenses to be issued pursuant to the applications. The permits should contain a special term subjecting them to the stipulation insofar as it relates to matters within the jurisdiction of the Board.

The remaining protestants have either withdrawn their protests or have entered into stipulations requiring no special mention in the permits.

Conclusion:

From the foregoing findings, the Board concludes that Applications 16726 and 16729 should be approved, and that permits should be issued to the applicants, subject to the limitations and conditions set forth in the following order; and that Decision D 1083 should be vacated in its entirety.

ORDER

IT IS HEREBY ORDERED that Applications 16726 and 16729, be, and the same are, approved and that permits be issued to

the applicant subject to vested rights and to the following limitations and conditions.

1(a). The amount of water appropriated pursuant to permit issued on Application 16726 shall be limited to the amount which can be beneficially used and shall not exceed 35 cubic feet per second by direct diversion to be diverted from about November 1 of each year to about May 1 of the succeeding year and 25,800 acre-feet per annum by storage to be collected during the same season.

(b). The amount of water appropriated pursuant to permit issued on Application 16729 shall be limited to the amount which can be beneficially used and shall not exceed 100 cubic feet per second by direct diversion to be diverted from about November 1 of each year to May 1 of the succeeding year and 32,800 acre-feet per annum by storage to be collected during the same season.

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 amounts herein stated may be reduced in the license if investigation warrants.

3. Actual construction work pursuant to permit issued on Application 16726 shall begin on or before June 1, 1975, and actual construction work pursuant to permit issued on Application 16729 shall begin on or before June 1, 1970. Thereafter said

construction work shall be prosecuted with reasonable diligence, and if not so commenced and prosecuted, these permits may be revoked.

4. Construction work pursuant to permit issued on Application 16726 shall be completed on or before December 1, 1978, and construction work pursuant to permit issued on Application 16729 shall be completed on or before December 1, 1973.

5. Complete application of the water to the proposed uses shall be made on or before December 1, 1985.

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 these permits, 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 these permits.

9. These permits do not authorize collection of water to storage during the period from about May 1 to about November 1

of each season to offset evaporation and seepage losses or for any other purpose.

10. Permittee shall install and maintain outlet pipes of adequate capacity in its dams as near as practicable to the bottom of the natural stream channels or provide other means satisfactory to the State Water Rights Board in order that water entering the reservoirs or collected in the reservoirs during and after the current storage season may be released into the downstream channels to the extent necessary to satisfy downstream prior rights and/or to the extent that appropriation of said water is not authorized under these permits.

11. Permittee shall install and maintain suitable measuring devices (a) upstream from the high water elevation of its reservoirs and (b) immediately below its storage dams in order that accurate measurement can be made of the quantity of water flowing into and out of said reservoirs.

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

13. A separate application for approval of plans and specifications for construction of the dams described in these approved water right applications shall be filed with and approved by the Department of Water Resources prior to commencement of construction of the dams.

14. Permittee shall at all times bypass a minimum of five cubic feet per second, or the natural flow of the stream whenever it is less than five cubic feet per second, at its points of diversion to maintain fishlife.

15. The permits are subject to the terms of that certain written stipulation, dated January 13, 1961, between the applicant and Nevada Irrigation District and received in evidence at the original hearing on the subject applications as applicant's Exh. No. 9, insofar as it relates to matters within the jurisdiction of the State Water Rights Board.

16. Rights under permit issued on Application 16726 shall be subject and subordinate to lawful rights of others to appropriate water for beneficial use within the Auburn Ravine watershed and rights under permit issued on Application 16729 shall be subject and subordinate to lawful rights of others to appropriate water for beneficial use within the Coon Creek watershed, initiated by applications filed after the date of priority of the permits to the extent that use under any permit issued pursuant to such application is commenced prior to commencement of construction under these permits, provided that this condition shall not preclude permittee from protesting and opposing any such application in accordance with law and administrative rules and requirements on grounds other than priority of these permits.

IT IS FURTHER ORDERED that Decision D 1083 be, and the same is, vacated in its entirety.

Adopted as the decision and order of the State Water Rights Board at a meeting duly called and held at _____, California, on the _____ day of _____, 1963.

Kent Silverthorne, Chairman

Ralph J. McGill, Member

W. A. Alexander, Member