

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 20538
of Vernon F. Shults and Wilma E. Shults
to Appropriate from Paynes Creek in
Tehama County

Decision D 1147
ADOPTED SEP 16 1963

DECISION APPROVING APPLICATION

Vernon F. Shults and Wilma E. Shults having filed Application 20538 for a permit to appropriate unappropriated water; protests having been received; a public hearing having been held before the State Water Rights Board in Red Bluff, California, on December 11, 1962, before Board Member Ralph J. McGill; the applicants and protestants having appeared and presented evidence; all evidence at said hearing having been considered, the Board finds as follows:

1. Application 20538 is for a permit to appropriate 27 acre-feet per annum (afa) by storage in a reservoir of that capacity between January 1 and April 1 of each year, for irrigation and recreational use, from Paynes Creek in Tehama County. The point of diversion is to be located within the SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 29, T29N, R1E, MDB&M.

2. Applicants have owned and operated a stock ranch of over 1,000 acres for about 25 years. Paynes Creek flows through the ranch, and water has been used from this source under claimed riparian and pre-1914 appropriative right for many years. The only irrigated area consists of about 86 acres north of the creek, and the same area would continue to be irrigated

under this application, but the summer supply would be supplemented by the storage water. The reservoir has already been constructed with the assistance of the Soil Conservation Service, and water reaches it after being diverted by a temporary earth and gravel dam through a ditch 1,200 feet long with a capacity of 8.5 cubic feet per second (cfs). Recreational use would be incidental.

3. Paynes Creek arises about 11 miles to the east of the proposed point of diversion and its watershed above said point contains about $18\frac{1}{2}$ square miles. The applicants' proposed place of use is located at the easterly end of a ground water basin that is about $2\frac{1}{2}$ miles long and up to $\frac{1}{3}$ of a mile wide. Most of the wells in the basin are located within about 200 feet of Paynes Creek, and they indicate that the basin's water-bearing alluvium ranges from about 40 to about 90 feet in depth. Paynes Creek flows through this ground water area, partly on the surface and partly underground, and then flows about 18 miles further to the west where it joins the Sacramento River near Red Bluff.

4. The recorded flow for the 92 square miles of watershed above the U. S. Geological Survey gaging station, "Paynes Creek near Red Bluff," has averaged 53,860 afa since the start of published records in 1949 (Staff Exh. 3). It is reasonable to assume that the 20 per cent of watershed above the proposed point of diversion, being at a higher elevation than the average for the watershed, would contribute at least 20 per cent of the runoff from the entire watershed, or an average of about 11,000 afa. Even in a dry water year, such as 1946, this streamflow at the proposed point of diversion would be about 5,000 afa (RT 76 and 77).

5. Seven families protested the application and appeared at the hearing in opposition to it. The water usages sought to be protected are primarily domestic and stockwatering, plus irrigation water used for less than 50 acres. The small community of a few houses and stores known as Paynes Creek is located in the center of the basin area, about 1 mile west of the applicants' irrigated area. All protestants use wells to obtain water, and many have water deficiency problems even in an average year during the summer and fall months. However, after the rainy season has started, the absorption rate of the water-bearing material is such that most of the water flows through the area and cannot be captured or used by protestants. Later in the year the slope of the basin and the porosity of the material at the lower end tend to drain off much of the usable ground water supply.

6. There is an ample supply of unappropriated water available for the applicants. It is possible for this water to be appropriated by the applicants without causing substantial injury to the protestants. The applicants have already amended their application to have the storage season start on January 1 instead of the preceding November 1, and some of the testimony of the protestants indicates that this may sufficiently protect them. Inasmuch as the shallower wells of the protestants and the wells at the lower end of the valley are dry by late summer or early fall, the first recharge potential will be required to raise the water levels for their use. Therefore, for additional protection of the protestants, the permit should provide that

no diversion is to commence in any year until a surface flow of Paynes Creek is observable at the bridge near the community of Paynes Creek. This should result in the assurance of a reasonable water supply in the basin before any appropriation is made under said permit. Water flowing in excess of the absorption capacity of the basin would otherwise flow out of the basin; a portion of that diverted to storage under this application would augment the basin supply in the summer as return flow of irrigation water and would thereby help the protestants.

7. The proposed use is beneficial.

From the foregoing findings the Board concludes that Application 20538 should be approved and a permit should be issued to the applicants subject to the limitations and conditions set forth in the following Order.

ORDER

IT IS HEREBY ORDERED that Application 20538 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 27 acre-feet per annum by storage to be collected between January 1 and April 1 of each year. No diversion to storage shall commence in any year until after Paynes Creek has a visible surface flow at the bridge located near the community of Paynes Creek.

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, 1967.

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. 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.

7. This permit does not authorize collection of water to storage during the period from April 1 of each year to January 1 of the following year to offset 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 _____, 1963.

Kent Silverthorne, Chairman

Ralph J. McGill, Member

W. A. Alexander, Member