

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 20246
of Leslie Reininghaus to Appropriate
from Duck Slough in Merced County

Decision D 1150

1150

ADOPTED DEC 19 1963

DECISION APPROVING APPLICATION IN PART

Leslie Reininghaus having filed Application 20246 for a permit to appropriate unappropriated water; protests having been received; the applicant and protestants 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 20246 is for a permit to appropriate 3 cubic feet per second (cfs) by direct diversion from April 1 to October 15 of each year for irrigation purposes from Duck Slough in Merced County. The point of diversion is to be located within the NE $\frac{1}{4}$ of Section 25, T8S, R12E, MDB&M.

2. The applicant proposes to divert by pumping from a pond formed by a small diversion dam that is to be constructed on Duck Slough at a point within the quarter section of land designated in the application, the exact location to be determined at the conclusion of negotiations with the owner of the property,

for the irrigation of 250 acres now served by wells and located approximately 6 miles above the point where Duck Slough enters East Side Canal.

3. The East Side Canal conveys water to the Stevinson Water District and the East Side Canal and Irrigation District located approximately 10 miles northwest of the point of where Duck Slough enters the canal. Along the way the canal spills water into intersecting Owens and Bear Creeks which contribute to the supply of Bravel and Deep Sloughs.

4. The flows of Duck Slough consist principally of rainfall runoff occurring during the winter, spring, and early summer months. During the irrigation season return flows from the irrigation of lands within the Merced Irrigation District enter the slough.

5. The records of a gaging station located on Duck Slough at the west boundary of the Merced Irrigation District approximately 4 miles below the applicant's proposed point of diversion along with spot measurements taken at the points of diversion of users located upstream from the gaging station who hold Licenses 5875 and 4456 show that water occurs in the slough infrequently during the months of July through October and when present during those months, it is required to satisfy the prior rights of these users. Considering only the requirements of these users there is clearly sufficient water during the months of April and May to warrant the approval of the application for those months.

6. Protestants East Side Canal and Irrigation District and Stevinson Water District state in their protest against

Application 20246 that the protest may be disregarded and dismissed if the applicant recognizes the prior rights of these protestants and if the application be approved "subject to and inferior to said rights." The usual provision in an order approving an application which subjects the permit to vested rights should meet the protestants' condition.

7. Protestant Charles Harney holds Permits 11091, 11092, and 11460 to appropriate from Bear Creek, Deep Slough and Bravel Slough, and Livingston Drain, respectively, for a total of 116 cfs. The major pumping units contemplated by these permits have not been installed and use of surface water on the designated places of use has not been substantial. The peak irrigation demand in this area is during the months of June, July and August and during the early spring and fall months the entire 116 cfs covered by this protestant's permits are not necessary to satisfy his needs.

8. There is unappropriated water available from about April 1 to about June 1 of each year to supply the applicant, and subject to suitable conditions, such water may be diverted and used in the manner proposed during that time without causing substantial injury to any lawful user of water. There is no unappropriated water to supply the applicant during the months of June through October.

9. The intended use is beneficial.

From the foregoing findings, the Board concludes that Application 20246 should be approved in part and that a permit should be issued to the applicant 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 20246 and all relevant information on file therewith, particularly the report of the field investigation made on March 14, 1962, and files on Applications 5724, 6111, 7012, 12633, 12634, 12635, 13071, 15627, 15628, and 16329.

ORDER

IT IS HEREBY ORDERED that Application 20246 be, and the same is, approved in part, and that a permit be issued to the applicant 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 3 cubic feet per second by direct diversion to be diverted from about April 1 to about June 1 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 June 1, 1964, 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, 1966.

5. Complete application of the water to the proposed use shall be made on or before December 1, 1967.

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.

9. The issuance of this permit should in no way be construed as conferring upon the permittee a right of access to the point of diversion.

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