

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 21686
of William J. Hanlon
to Appropriate from an Unnamed Creek
in Tehama County

Decision D 1234

ADOPTED AUG 25 1965

DECISION APPROVING APPLICATION

William J. Hanlon having filed Application 21686 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 full advised in the premises, finds as follows:

1. Application 21686 is for a permit to appropriate 0.1 cubic foot per second (cfs) by direct diversion from May 1 to October 15 of each year, for irrigation purposes, from an unnamed creek in Tehama County. The point of diversion is to be located within the SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 28, T24N, R2W, MDB&M.

2. The unnamed creek, which has been improved and aligned, flows from its origin in an easterly direction approximately 1/2 mile to the applicant's point of diversion,

1234

continuing in a southerly direction approximately one mile to enter Jewett Creek. Applicant plans to dig a sump in the creek and pump the water into an existing sprinkler system for the irrigation of 8 acres of olive orchard.

3. During the summer months the water in the creek is waste water from the irrigation of the lands of the protestant Hoag by wells which extract percolating ground water. There have been no measurements of the flow of the creek. The water in the creek at the applicant's point of diversion during the summer months has reached an estimated maximum of 10 inches in depth.

4. Protestant Tolman has been using water from the creek since approximately 1949, when it first became available, for the irrigation of 1.5 acres of pasture and 2 acres of olive orchard. Any riparian right that the applicant may have to the flows of the unnamed creek would not attach to the water covered by the application, as it is not natural flow. This protestant has not filed an application to appropriate the water he has been using, and he has failed to establish a right to its use.

5. Protestant Hoag, whose property lies upstream from the applicant, has the right to recapture the water sought to be appropriated before it leaves his premises. Approval of Application 21868 cannot result in injury to him, and his protest was accordingly dismissed. He was so advised by letter of May 27, 1965.

6. The unnamed creek is a tributary to the Sacramento River. However, during the irrigation season there is no hydraulic continuity between the two streams. Therefore, those holding rights to divert from the Sacramento River and Delta will not be harmed by approval of Application 21686.

7. 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.

8. The intended use is beneficial.

From the foregoing findings, the Board concludes that Application 21686 should be approved 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 21686 and all relevant information on file therewith, particularly the report of the field investigation made May 19, 1965, and U. S. Geological Survey 7½-minute quadrangle, "Vina."

ORDER

IT IS HEREBY ORDERED that Application 21686 be, and it is, approved, and that a permit be issued to the applicant subject to vested rights and to the following limitations and conditions:

1. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 0.1 cubic foot per second by direct diversion to be diverted from about May 1 to about October 15 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 quantity herein stated may be reduced in the license if investigation warrants.

3. Actual construction work shall begin on or before June 1, 1966, 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, 1968.

5. Complete application of the water to the proposed use shall be made on or before December 1, 1969.

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 , 1965.

/s/ Kent Silverthorne
Kent Silverthorne, Chairman

/s/ Ralph J. McGill
Ralph J. McGill, Member

/s/ W. A. Alexander
W. A. Alexander, Member