

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 21816
of Ralph H. and Margery M. Cochrane
to Appropriate from an Unnamed Spring
in El Dorado County

Decision D 1238

ADOPTED DEC 23 1965

DECISION APPROVING APPLICATION

Ralph H. and Margery M. Cochrane having filed Application 21816 for a permit to appropriate unappropriated water; protests having been received; the applicants 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 21816 is for a permit to appropriate 0.1 cubic foot per second (cfs) by direct diversion, year-round, for domestic and fire protection purposes, from an unnamed spring in El Dorado County. The point of diversion is to be located within the SW $\frac{1}{4}$ of NW $\frac{1}{4}$, Section 9, T9N, R12E, MDB&M.

2. The unnamed spring is tributary to the North Fork Cosumnes River. It rises on the applicants' property in a ravine approximately 1 mile east of the town of Somerset at

an approximate elevation of 2,200 feet. On May 5, 1965, the flow of the spring was 21 gallons per minute.

3. The applicants have developed the spring by excavation, have constructed a timber spring box, and have installed two regulatory storage tanks. The water is to be used to serve 10 or 12 cabin sites and for fire protection. The applicants claim a riparian right to water from the spring covering the same uses.

4. Protestants Hal Ellis and George W. Artz divert approximately 2 cfs from the Cosumnes River near Bridge House from March 1 to late in the fall of the year for irrigation and stockwatering. They hold License 537 (Application 1838) and claim pre-1914 appropriative and riparian rights. Protestant Cosumnes Irrigation Association diverts 30 cfs at the same point of diversion as these protestants for irrigation and the replenishment of ground water. It holds License 2629 (Application 2296) and claims riparian and pre-1914 appropriative rights.

5. The protestants have no objection to the issuance of a permit to the applicants if the diversion season does not include the period from July 1 to October 15. The Board has previously found (Decision D 1075, adopted March 15, 1962) that there is no unappropriated water in the Cosumnes River stream system above the protestants during this same period and there has been no showing of any change in circumstances justifying a different conclusion at this time. Investigation by the Board's staff has shown that there was no continuity of

flow from the spring to the North Fork Cosumnes River early in July in a year of above normal precipitation and runoff. Therefore, continuity of flow does not normally exist from about July 1 until the winter rains. The protestants and other users holding prior rights will not be injured by the approval of the application for the entire year.

6. There is unappropriated water available to supply the applicants, 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.

7. The intended use is beneficial.

From the foregoing findings, the Board concludes that Application 21816 should be approved 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 21816 and all relevant information on file therewith, particularly the reports of the field investigations made on May 5, 1965, and July 8, 1965; State Water Rights Board Decision D 1075; and Department of Water Resources Bulletin 120-65, "Water Conditions in California," May 1965.

ORDER

IT IS HEREBY ORDERED that Application 21816 be, and it is, approved, and that a permit be issued to the

applicants 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 year-round.

2. The maximum quantity herein stated may be reduced in the license if investigation warrants.

3. Construction work shall be completed on or before December 1, 1968.

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

5. 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.

6. 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.

7. 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.

8. Upon a judicial determination that the place of use under this permit or a portion thereof is entitled to the use of water by riparian right, the right so determined and the right acquired under this permit shall not result in a combined right to the use of water in excess of that which could be claimed under the larger of the two rights.

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