

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 22381)
of F. Daniel and Margie M. Frost)
to Appropriate from Mustard Creek) Decision 1312
in San Luis Obispo County)

DECISION APPROVING APPLICATION

F. Daniel and Margie M. Frost having filed Application 22381 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 Resources Control Board pursuant to said stipulation; the Board, having considered all available information, finds as follows:

1. Application 22381 is for a permit to appropriate 40 acre-feet per annum by storage from October 1 of each year to June 1 of the succeeding year for irrigation purposes from Mustard Creek tributary to the Salinas River in San Luis Obispo County. The point of diversion is to be located within the NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 18, T26S, R12E, MDB&M.

2. Applicants plan to use the stored water to irrigate 100 acres of orchard and for fishing. Presently the applicants are irrigating their property by means of water pumped from wells.

3. Subsequent to the filing of the application, three protests were received. Each protestant expressed concern that the construction of a dam on Mustard Creek would prevent underground flow from reaching downstream wells. However, there are, at present, no downstream wells.

4. The protests of Beulah Lewey et al. and E. F. Smith et al. were conditionally withdrawn. The conditions requested will be included in the permit.

5. Mustard Creek is fed by a drainage area of approximately 4,000 acres. The drainage area is between 680 and 1,800 feet in elevation. The average rainfall at Paso Robles (elevation 700 feet), which is about 3 miles south of Mustard Creek, is 15.1 inches a year.

6. Both the applicants and protestants agree that there is excess runoff in the creek during the winter months.

7. Subsurface exploration conducted at the damsite indicates that there is an impermeable clay layer at a depth of 10 feet. The composition of the

subsurface area below 10 feet is sand and sandy gravel. The clay layer would be satisfactory for the cutoff trench of the dam. This cutoff trench would not materially impair whatever subsurface flow exists in Mustard Creek.

8. Unappropriated water is 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.

9. The intended use is beneficial.

From the foregoing findings, the Board concludes that Application 22381 should be approved and that a permit should be issued to the applicants subject to the limitations and conditions set forth in the order following.

The records, documents, and other data relied upon in determining the matter are: Application 22381 and all relevant information on file therewith, particularly the reports of the field investigations made October 27, 1966, and July 12, 1967.

ORDER

IT IS HEREBY ORDERED that Application 22381 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 40 acre-feet per annum by storage to be collected from October 1 of each year to June 1 of the succeeding year.

This permit does not authorize collection of water to storage outside the specified season to offset evaporation and seepage losses or for any other purpose.

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, 1969, and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked.

4. Said construction work shall be completed on or before December 1, 1971.

5. Complete application of the water to the proposed use shall be made on or before December 1, 1972.

6. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the State Water Resources Control 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 Resources Control 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 Resources Control 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. Water entering the reservoir or collected in the reservoir during and after the current storage season shall be released into the downstream channel to the extent necessary to satisfy downstream prior rights and to the extent that appropriation of water is not authorized under this permit.

Permittee shall install and maintain an outlet pipe of adequate capacity in his dam as near as practicable to the bottom of the natural stream channel, or provide other means satisfactory to the State Water Resources Control Board to comply with the preceding paragraph.

10. The issuance of this permit shall not be construed as placing a limitation on any riparian right to the waters of Mustard Creek held by the permittee.

Adopted as the decision and order of the State Water Resources Control Board at a meeting duly called and held at Sacramento, California.

Dated: SEP 5 1968

/s/ George B. Maul
George B. Maul, Chairman

/s/ W. A. Alexander
W. A. Alexander, Vice Chairman

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

/s/ Norman B. Hume
Norman B. Hume, Member

/s/ E. F. Dibble
E. F. Dibble, Member