

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 23306)
of Horace C., Jr., Virginia and) Decision 1366
Timothy Bayliss to Appropriate from)
West Canyon in El Dorado County.)

DECISION APPROVING APPLICATION IN PART

Horace C., Jr., Virginia and Timothy Bayliss having filed Application 23306 for a permit to appropriate unappropriated water; protests having been received; a public hearing having been held before the State Water Resources Control Board on July 1, 1970; applicants and protestants having appeared and presented evidence; the evidence received at the hearing having been duly considered, the Board finds as follows:

Substance of the Application

1. Application 23306 is for a permit to appropriate 10 acre-feet per annum (afa) by storage from November 1 of each year to June 30 of the succeeding year for irrigation, recreation and fire protection purposes from West Canyon in El Dorado County. The point of diversion is to be located within the SE $\frac{1}{4}$ of SE $\frac{1}{4}$, Section 4, T12N, R10E, MDB&M.

Since filing Application 23306 the applicants have modified their plans and now propose storage of only three afa by

storage (RT 7).

Applicants' Project

2. The applicants propose to construct a dam in West Canyon 20 feet in height which will form a reservoir with a 3 acre-foot capacity and a surface area of approximately three-tenths of an acre. The reservoir will be stocked with trout and the water used for the irrigation of five acres of native trees and orchard.

Protests

3. Protestants Helmut and Auli Ann Will and Jerrold A. and Shirley M. Wergeland use water from West Canyon under apparent riparian rights for domestic use at campsites, principally on weekends. They use approximately 40 gallons and 72 gallons, respectively, per weekend. They claim that the approval of Application 23306 will result in interference with their supply of water and are apprehensive that construction of the dam will cause pollution of the stream and that the dam will be a hazard to their safety when completed.

Water Supply

4. There are no records of the flows of West Canyon. However, based on the average rainfall of 56.01 inches per year and assuming a runoff factor of 0.25, the theoretical storm runoff from the 250-acre watershed above the damsite is 296 afa. Heavy winter rains contribute most of the flow in the stream with the average of 58 acre-feet or a continuous flow of 0.93 cubic foot per second occurring in December. While the summer flow is extremely low,

neither the applicants nor protestants have observed West Canyon without some flow.

There is ample winter runoff surplus to the protestants' needs to fill the applicant's proposed reservoir. In order to protect the protestants and other riparian users during the period of low flow, any permit issued on Application 23306 should not include the months of May and June.

Water Pollution

5. Any permit issued on Application 23306 should include a special term stating that during the period of construction work the permittees shall take such precautions as will be necessary to prevent diminution of flow and degradation of quality of the water.

Dam Safety

6. The applicants' proposed dam is not within the jurisdiction of the Department of Water Resources, Division of Safety of Dams. However, it is to be constructed under the supervision of the U. S. Soil Conservation Service and in accordance with its specifications (RT 25). No evidence has been presented that warrants the conclusion that the applicants' dam will be constructed in such a manner as to become a hazard to the protestants and others located along West Canyon below the damsite.

Availability of Unappropriated Water

7. 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.

8. The intended use is beneficial.

From the foregoing findings, the Board concludes that Application 23306 should be approved in part and that a permit should be issued to the applicants subject to the limitations and conditions set forth in the order following.

ORDER

IT IS HEREBY ORDERED that Application 23306 be, and it is, approved in part, 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 3 acre-feet per annum by storage to be collected from about November 1 of each year to about April 30 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 State Water Resources Control Board reserves jurisdiction over this permit for the purpose of conforming the season of diversion to later findings of the Board on prior applications involving water in the Sacramento River Basin and Delta. Action by the Board will be taken only after notice to interested parties and opportunity for hearing.

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

4. Actual construction work shall begin on or before nine months from the date of issuance of this permit, and if not so commenced and prosecuted this permit may be revoked.

5. Said construction work shall be completed on or before December 1, 1973.

6. Complete application of the water to the proposed use shall be made on or before December 1, 1974.

7. Progress reports shall be filed promptly by permittee when requested by the State Water Resources Control Board until license is issued.

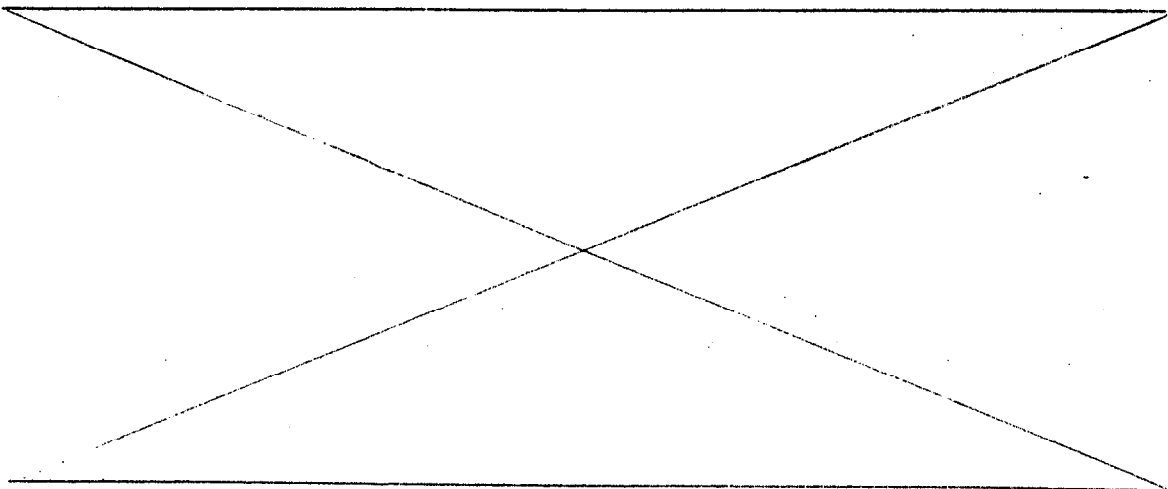
8. All rights and privileges under this permit, including method of diversion, method of use and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

9. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will

be taken pursuant to this paragraph unless the Board finds that
(1) adequate waste discharge requirements have been prescribed
and are in effect with respect to all waste discharges which have
any substantial effect upon water quality in the area involved,
and (2) the water quality objectives cannot be achieved solely
through the control of waste discharges.

10. In order to prevent degradation of the quality of
water during and after construction of the project, permittee
shall file a report pursuant to Water Code Section 13260 and shall
comply with any waste discharge requirements imposed by the
California Water Quality Control Board, Central Valley Region or
by the State Water Resources Control Board.

11. 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.



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

Dated: December 3, 1970

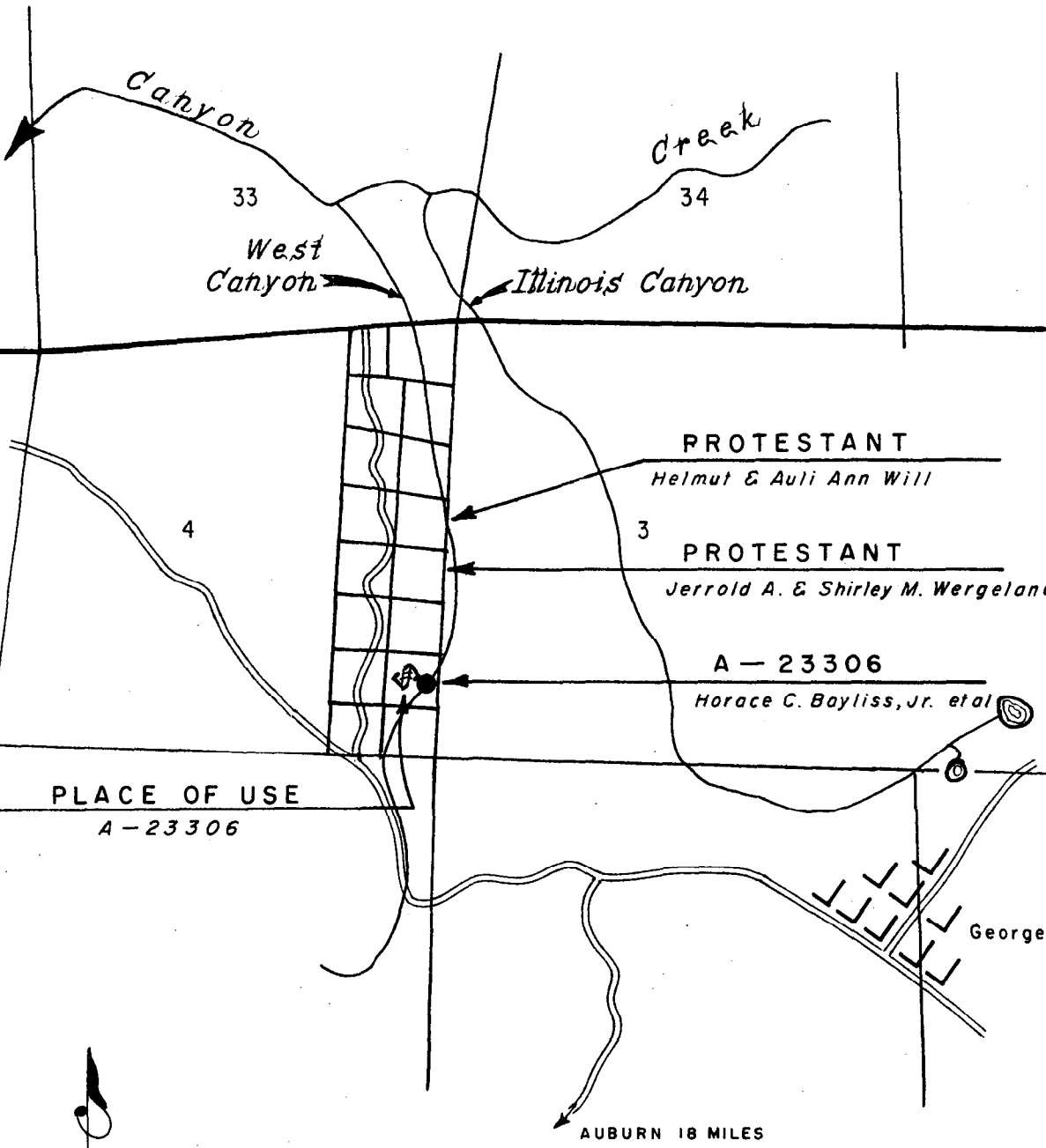
Kerry W. Mulligan, Chairman

E. F. Dibble, Vice Chairman

Norman B. Hume, Member

Ronald B. Robie, Member

W. W. Adams, Member



T13N
T12N

PLACE OF USE
A-23306

PROTESTANT
Helmut & Auli Ann Will

3
PROTESTANT
Jerrold A. & Shirley M. Wergeland

A-23306
Horace C. Bayliss, Jr. et al

Georgetown

AUBURN 18 MILES



EL DORADO CO.
T12N - R10E
M.D. B & M.

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

APPLICATION
23306

SCALE
0 1000 4000 FEET

DATE: 4-14-70 DRAWN: G-C.W. CHECKED: H.E.W. DWG. 2894