

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 23117  
of Frank G. Belcher, Jr. to  
Appropriate from Little Shasta  
River and an Unnamed Stream in  
Siskiyou County

Decision 1367

DECISION APPROVING APPLICATION IN PART

Frank G. Belcher, Jr. having filed Application 23117 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 August 27, 1969; applicant 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 23117 is for a permit to appropriate 2,700 acre-feet per annum by storage from November 1 of each year to June 1 of the succeeding year for irrigation and stockwatering purposes from Little Shasta River and an unnamed stream tributary to Shasta River in Siskiyou County. The points of diversion are located within the  $SE\frac{1}{4}$  of  $NE\frac{1}{4}$  of Section 32, T45N, R5W, MDB&M, and the  $NE\frac{1}{4}$  of  $SW\frac{1}{4}$  of Section 6, T44N, R5W, MDB&M.

## Description of Sources

2. Little Shasta River heads at an elevation of approximately six thousand feet and courses in a general southwesterly direction approximately 17 miles to the applicant's property, then in an westerly direction for approximately five miles to its confluence with the Shasta River. The unnamed stream originates on the applicant's property and courses in a general southwesterly direction approximately three miles to its junction with the Shasta River.

## Water Supply

3. The flows of the Little Shasta River are recorded at a U.S.G.S. gaging station approximately eight miles upstream from the applicant. However, due to intervening diversions, operational spill from the Montague Water Conservation District Canal and irrigation return flow, the records of this station are not representative of the flows at the applicant's point of diversion. There is a U.S.G.S. gaging station on the Shasta River approximately one mile below the Little Shasta River junction and the Department of Water Resources has maintained a gaging station on the Shasta River at the Montague-Grenada highway bridge above the protestants.

Flows in the Little Shasta River usually commence around the first week in November. By the end of November and through January the flows passing the applicant's point of diversion average 40-60 cubic feet per second (cfs), decreasing to between 15-20 cfs by the first of April and to between 5-8 cfs during the

latter part of May (RT 143). By the first of June there is practically no flow in the Little Shasta River.

#### Applicant's Project

4. Application 23117 covers storage of water in an existing reservoir (Flock No. 2) on the unnamed stream. The reservoir has a capacity of approximately 2,720 acre-feet. Water is diverted from Little Shasta River by gravity into a ditch and then pumped through a 1,600 foot pipeline into the reservoir. The reservoir also receives a small amount of local runoff from a drainage area of approximately 1,000 acres. Water is to be used for stockwatering and for the irrigation of 350 acres of pasture. Also, the water will be a supplemental supply for the 1,400 acres the applicant is presently irrigating under Licenses 5066, 5067, 5068, and 8647 and rights claimed from springs and wells.

#### Applicant's Water Requirements

5. Applicant's total water requirements for the 1,750 acres the applicant will irrigate, based on a duty of 4.33 acre-feet per acre, is 7,578 acre-feet. The total amount of water covered by the licenses the applicant now holds and Application 23117, under optimum conditions, is 6,979 acre-feet.

#### Protests

6. Protests were filed by W. C. Ealy, Leland L. Domeyer, Norman E. Flock, Henry E. Flock, Earl B. Flock, Morris L. Prather,

and Herman J. Morris. W. C. Ealy diverts from the Little Shasta River and the other protestants divert from the Shasta River. The protestants claim appropriative, riparian and decreed rights (Shasta River Adjudication, Superior Court of Siskiyou County, Action No. 7035). They have no objection to the approval of Application 23117 if the applicant's diversion season does not extend beyond April 1.

#### Availability of Water

7. The applicant holds Licenses 5066 and 5068 which authorize the diversion of a total of 15.6 cfs from the Little Shasta River during the month of May, which exceeds the dependable flow of Little Shasta River during that month. The month of May should not be included in any permit issued on Application 23117.

The record of mean monthly discharges of Shasta River at the Montague-Grenada highway bridge above the protestants for the months of April through September (years 1939 through 1968) show that during this period the flows in the Shasta River in the month of April have never been less than 20 cfs, the total requirement of all downstream users (RT 94). The Belcher diversion is upstream from this gage.

Mr. Belcher's additional requirements under Application 23117 can not exceed 30 cfs as limited by the application. Therefore, the amount required at the gage to fulfill his requirement and those downstream from the gage is  $30 + 20 = 50$  cfs. There have only been four years out of the 20 years of record

when the flow during April was less than 50 cfs. Thus it appears that diversions by the applicant during the month of April will not result in harm to the protestants during most years. It is agreeable to the applicant that his diversions be supervised by the watermaster service furnished by the Department of Water Resources (RT 152, 176). Since the hearing, the applicant has requested watermaster service, and the Department has stated that this service would be provided if and when a permit is issued. This should protect the protestants during the occasions in the month of April when there is insufficient water to satisfy their prior rights and the rights of the applicant under any permit issued pursuant to Application 23117.

Unappropriated Water is Available

8. Unappropriated water is 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.

9. The intended use is beneficial.

From the foregoing findings, the Board concludes that Application 23117 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 order following.

ORDER

IT IS HEREBY ORDERED that Application 23117 be, and it 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 water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 2,700 acre-feet per annum by storage to be collected from about November 1 of each year to about May 1 of the succeeding year.

Diversion of water during the month of April is allowed provided the permittee's diversion system is under the supervision and regulation of the Shasta River watermaster.

The maximum rate of diversion to offstream storage under this permit and under Licenses 5066, 5067, 5068, and 8647 shall not exceed 45 cubic feet per second.

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. Complete application of the water to the proposed use shall be made on or before December 1, 1973.

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

5. 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.

6. 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.

7. 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.

8. In accordance with the requirements of Water Code Section 1393, permittee shall clear the site of the reservoir of all structures, trees, and other vegetation which would interfere with the use of the reservoir for water storage and recreational purposes.

9. Rights under this permit, are, and shall be, subject to existing rights defined by the Shasta River Adjudication, Superior Court of Siskiyou County, Action No. 7035, and such other rights as may presently exist on the stream, insofar as said existing and adjudicated rights are maintained.

10. Permittee shall maintain an outlet pipe of adequate capacity in his storage 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, in order that 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.



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

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Kerry W. Mulligan, Chairman

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E. F. Dibble, Vice Chairman

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Norman B. Hume, Member

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Ronald B. Robie, Member

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W. W. Adams, Member