

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 23570)
)
of HARRY E. and ADELE M. HAZELTINE)
) Decision 1398
to Appropriate From Ash Creek)
)
in Shasta County.)
_____)

DECISION APPROVING APPLICATION IN PART

Harry E. and Adele M. Hazeltine having filed Application 23570 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:

Substance of the Application

1. Application 23570 is for a permit to appropriate 1.25 acre-feet per annum by storage to be collected from September 1 of each year to June 15 of the succeeding year for recreational and fish culture purposes from Ash Creek in Shasta County. The point of diversion is to be located within the SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 33, T31N, R1E, MDB&M.

Applicants' Project

2. The applicants have constructed a dam and reservoir on Ash Creek approximately 1-1/4 miles below Brand Spring, the creek's point of origin. In the process of construction they have cleared over one acre of dense vegetation. The reservoir is to be used for recreation with incidental fish culture. No consumptive use of water is planned.

Protestants

3. Protestants Gail Truett and C. P. Miller et ux. claim a pre-1914 appropriative right to store water in Truett Lake which is on Ash Creek approximately 1-1/4 miles below the applicants. They also claim a pre-1914 right to 110 miners inches (6-inch pressure) from North Fork Battle Creek which is diverted into Ash Creek approximately one-half mile above the applicants by means of the Smith Ditch. Their uses are recreation and irrigation of approximately 400 acres of pasture.

Protestant Emory Blodgett diverts from Ash Creek downstream from Truett Lake under claim of riparian right for the irrigation of approximately 25 acres. He also claims a right to return flow from the water imported by the other protestants which appears on his property as springs.

Water Supply

4. There are no records of the flows of Ash Creek. The creek has a tributary watershed of 14 square miles. Records

for the Bear Creek watershed, which is similar to the Ash Creek watershed, show that the estimated mean seasonal runoff is 756 acre-feet per square mile and the minimum seasonal runoff is 10 acre-feet per square mile. The applicants' reservoir should fill in a few days during the winter months when there is ample water for all users during years of normal rainfall.

5. During the irrigation season a 1/4-mile section of the channel of Ash Creek between Pacific Gas and Electric Company's diversion and protestants' point of importation is usually dry and only the 110 miners inches of foreign water belonging to the protestants is available at applicants' point of diversion.

Water Salvaged by Applicants

6. The only possible adverse effect the applicants' reservoir could have upon the use of water by protestants would occur during the irrigation season when all the water flowing through the reservoir would be foreign water belonging to the protestants. The effect of the applicants' reservoir on the flows of Ash Creek during that time would be the difference between the evaporation and seepage losses at the reservoir and the amount of water salvaged by the applicants as a result of their removal of water-consuming vegetation (phreatophytes) in the construction of their reservoir.

When the applicants' reservoir is filled, it will have a surface area of approximately three-quarters of an acre. Evaporation losses from a reservoir of this surface area during the months of April through September, based on data for Shasta Reservoir, would be approximately 3.5 acre-feet. This estimate is probably greater than the losses which actually will occur due to the difference in altitude and location of the two reservoirs.

The water-consuming vegetation cleared by the applicants included vegetation growing within 50 feet of each side of the creek and covered approximately three-quarters of an acre. The vegetation consumed approximately five acre-feet of water per acre during the summer months, or 3.75 acre-feet for the 3/4-acre area. The water that will be salvaged each year by the applicants' removal of water-consuming vegetation along Ash Creek will exceed reservoir evaporation losses by approximately one-quarter acre-foot.

Reduction in Diversion Season

7. As prior rights require all the water that is available in Ash Creek during the irrigation season, any permit issued pursuant to Application 23570 should be limited to the period from November 1 of each year to April 1 of the succeeding year.

Availability of Unappropriated Water

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 23570 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.

The records, documents, and other data relied upon in determining the matter are: Application 23570 and 22335 (Decision 1315) and all relevant information on file therewith, particularly the reports of field investigations made August 26, 1970 and May 7, 1971.

ORDER

IT IS HEREBY ORDERED that Application 23570 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 1.25 acre-feet per annum by storage to be collected from November 1 of each year to April 1 of the succeeding year.

2. After the initial filling of the storage reservoir, permittee's right under this permit extends only to water necessary to keep the reservoir full by replacing water lost by

evaporation and seepage, and to refill if emptied for necessary maintenance or repair. Such right shall be exercised only during the authorized diversion season.

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

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

5. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control 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 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.

7. 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 pur-

suant 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.

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. 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, in order that water entering the reservoir which is not authorized for appropriation under this permit may be released.

10. Permittee shall accord to the public, for the purpose of fishing, the right of access to the waters impounded by the dam under this permit during the open season for the taking of fish subject to the regulations of the Fish and Game Commission.

11. Permittee shall keep the channel of Ash Creek through his property and the reservoir and the area around its

perimeter free of phreatophytes, taking whatever measures are necessary to accomplish this objective on a regular maintenance basis.

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

Dated: April 6, 1972

W. W. ADAMS
W. W. Adams, Chairman

E. F. DIBBLE
E. F. Dibble, Vice Chairman

NORMAN B. HUME
Norman B. Hume, Member

RONALD B. ROBIE
Ronald B. Robie, Member