

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 23728
of KENNETH GLICK and LOUIS BERGMAN
to Appropriate from an Unnamed
Stream in San Luis Obispo County.

Decision 1401

DECISION APPROVING APPLICATION

Kenneth Glick and Louis Bergman having filed Application 23728 for a permit to appropriate unappropriated water; a protest having been received; the applicants and protestant 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 23728 is for a permit to appropriate 40 acre-feet per annum by storage to be collected from November 1 of each year to May 1 of the succeeding

.. year for irrigation, stockwatering, recreational and fish culture purposes from an unnamed stream tributary to Dover Canyon (aka Rocky Creek) in San Luis Obispo County. The point of diversion is to be located within the $SE\frac{1}{4}$ of $SE\frac{1}{4}$ of Section 25, T27S, R10E, MDB&M.

Applicants' Project

2. The applicants propose to construct an earth dam about 22 feet high and 200 feet in length. This dam will create a reservoir having a surface area of about three acres and a capacity of 40 acre-feet.

The primary purpose of the reservoir for the first several years will be for stockwatering, fish culture and recreational uses, with ten acres of grapes to be planted and irrigated later.

Protest

3. Protestant Milton E. Mohr has prior Application 23559, which has not been permitted. It was filed for the storage of 72 acre-feet per annum to be collected in three reservoirs which have been constructed.

Water Supply

4. The unnamed stream heads in Section 25, T27S, R10S, MDB&M, and flows in a southerly direction about one-half mile to its confluence with Dover Canyon (aka Rocky Creek). The applicants are located about one-fourth mile above the confluence. The protestant's project is on Dover Canyon about one-half mile downstream from the confluence.

Above the applicants' proposed dam is 125 acres of watershed, and the total drainage area of the protestant's dams is 870 acres.

In most years there will be sufficient runoff to fill both applicants' and protestant's reservoirs. Any permit issued to applicants should provide that in any year in which protestant's reservoirs do not fill by April 1, water stored in applicants' reservoir during the preceding season must be released to satisfy protestant's prior rights.

Existence of Unappropriated Water

5. 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.

6. The intended use is beneficial.

From the foregoing findings, the Board concludes that Application 23728 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 23728 and all relevant information on file therewith, particularly the report of field investigation made September 29, 1971.

ORDER

IT IS HEREBY ORDERED that Application 23728 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 November 1 of each year to May 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 nine months from date of permit 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, 1974.

5. Complete application of the water to the proposed use shall be made on or before December 1, 1975.

6. Progress reports shall be submitted promptly by permittee when requested 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. 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.

9. 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.

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 Regional Water Quality Control Board, Central Coast Region, or by the State Water Resources Control Board.

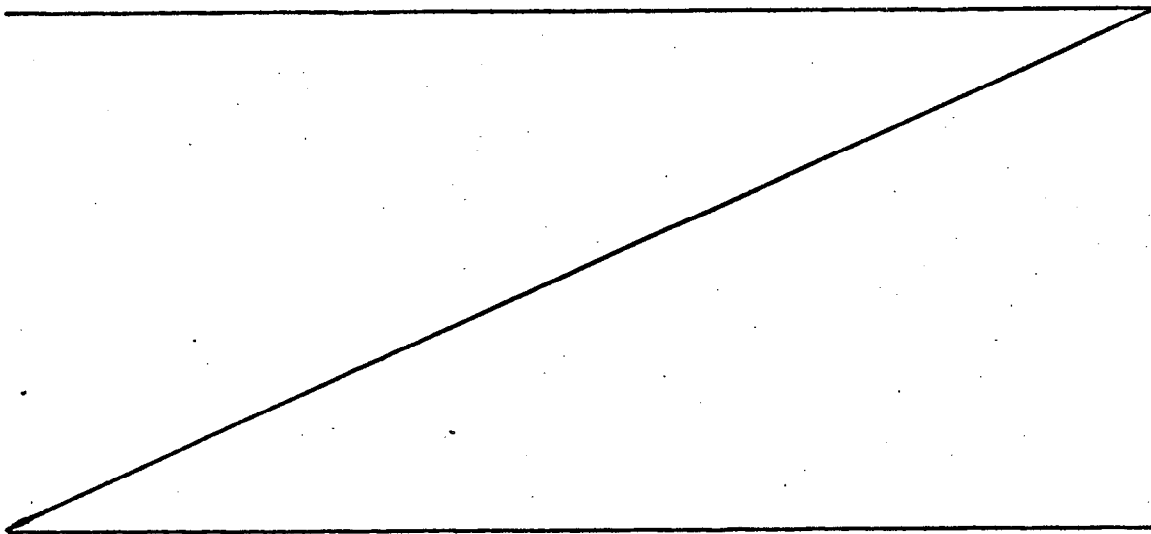
11. Permittee shall install and maintain an outlet pipe of adequate capacity in his dam as near as practicable to the bottom of the natural stream channel in order that water entering the reservoir or collected in the reservoir during and after the current storage season may be released into the downstream channel to the extent necessary to satisfy the terms of this permit.

12. Permittee shall install and maintain a staff gage in his reservoir meeting the approval of the State Water Resources Control Board for the purposes of determining water levels in the reservoir.

13. Permittee shall supply the staff gage readings on or about November 1 of each year, verified by protestant Milton E. Mohr or his designated representative, to the State Water Resources Control Board.

14. This permit is expressly subject to the prior rights of protestant Milton E. Mohr to collect water to storage under Application 23559. If protestant's reservoirs do not fill by April 1, permittee shall release water collected in his reservoir subsequent to November 1 of the preceding year to the extent necessary to fill protestant's reservoirs. In no event shall permittee be obligated to release water below the staff gage readings of the previous November.

15. Permittee shall allow protestant Milton E. Mohr or his designated representative or his successor in interest reasonable access to his reservoir to determine whether water should be released in accordance with 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: August 3, 1972

ABSENT

W. W. Adams, Chairman

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

RONALD B. ROBIE
Ronald B. Robie, Member

ROY E. DODSON
Roy E. Dodson, Member

MRS. CARL H. (JEAN) AUER
Mrs. Carl H. (Jean) Auer, Member