

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 23542)
of James M. Cornett, et al, dba)
Little Chico Investment Associates) Decision 1411
to Appropriate from Little Chico)
Creek in Butte County.)

DECISION APPROVING APPLICATION

James M. Cornett, et al, dba Little Chico Investment Associates, having filed Application 23542 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 February 25, 1972; applicants and protestant Meline and Rabo, a partnership, 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 23542 is for a permit to appropriate 15 acre-feet per annum by storage to be collected from October 1 of each year to April 30 of the succeeding year for domestic, recreational and stockwatering purposes from Little Chico Creek in Butte County. The point of diversion is to be located within the SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 24, T23N, R2E, MDB&M.

1411

Applicants' Project

2. Applicants have constructed a storage reservoir on Little Chico Creek approximately 10 miles northeast of the City of Chico. There is an 8-inch outlet pipe in the bottom of the reservoir (RT 12). The principal uses of the reservoir will be for swimming, boating, fishing and other recreation at a proposed subdivision which will contain 137 lots. A few cattle will water at the reservoir (RT 17). Water for domestic use at the proposed subdivision will be obtained from springs and wells (RT 37). The applicants have agreed to the deletion of domestic use from their application (RT 46). They have no plans for irrigation use and it also should be deleted from the application.

Protest

3. Protestant Meline and Rabo, a partnership, irrigates approximately 20 acres of olives, waters approximately 500 head of cattle, and uses water for domestic purposes at a residence, all under claim of riparian right to water from Little Chico Creek.

Water Supply

4. The watershed of Little Chico Creek above the applicants' reservoir is approximately 10 square miles. The elevation in the watershed ranges from a maximum of 3,000 feet down to approximately 1,200 feet at the applicants' point of diversion. The creek is in a deeply incised canyon with the watershed generally less than one mile in width. The records of a gaging station on Little Chico Creek approximately three miles east of Chico which cover

the period 1959 through 1968 show the annual discharge of the creek during that period to have been between 5,000 and 35,000 acre-feet. In most years, the creek ceases to flow at the gaging station by July and does not resume until the first substantial rains in the fall. A flow of three cubic feet per second, at a minimum, occurs at the gaging station throughout the applicants' diversion season.

Disposition of Protest

5. The protestant concedes that the storage of water proposed by Application 23542 will not interfere with its use of water (RT 52). The protestant's principal concern is that the applicants' reservoir may be operated in such a manner as to prevent the entire streamflow from passing through the reservoir during the period when diversion is not authorized.

Special permit terms should be included in any permit issued pursuant to Application 23542 requiring the permittee to install measuring devices upstream and below the permittee's reservoir and requiring the permittee to form a permanent organization to insure that the reservoir will be operated in accordance with the terms of the permit.

Special Term for Public Access

6. There are resident fish in Little Chico Creek in the area of the applicants' reservoir. A special permit term should be included in any permit issued pursuant to Application 23542 providing for public access to the reservoir. The applicants have no objection to such a term (RT 35).

Existence 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 23542 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.

ORDER

IT IS HEREBY ORDERED that Application 23542 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 15 acre-feet per annum to be collected from October 1 of each year to 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. 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 beneficially used and 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 amount authorized for appropriation may be reduced in the license if investigation warrants.

4. Construction work shall be completed on or before December 1, 1975.

5. Complete application of the water to the proposed use shall be made on or before December 1, 1976.

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.

Permittee shall take all reasonable steps necessary to minimize waste of water, and may be required to implement such programs as (1) reusing or reclaiming the water allocated; (2) restricting diversions so as to eliminate tailwater or to reduce return flow; (3) suppressing evaporation losses from water surfaces; (4) controlling phreatophytic growth; and (5) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. At any time after notice to affected parties and opportunity for hearing, the Board may impose specific requirements over and above those contained in this permit, with a view to

meeting the reasonable water requirements of permittee without unreasonable draft on the source.

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. Permittee shall 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.

11. No water shall be diverted under this permit until permittee has installed devices, satisfactory to the State Water Resources Control Board, capable of measuring the flow into and out

of the reservoir during the nonstorage season. Said measuring devices shall be properly maintained.

12. 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.

13. This permit is subject to the continuing authority of the State Water Resources Control Board to reduce the amount of water named in the permit (or license) upon a finding by the Board that the amount is in excess of that reasonably needed to be held in storage for the authorized uses. No action will be taken by the Board without prior notice to the owner and an opportunity for hearing.

14. No water shall be appropriated until the permittee has established a permanent organization which will, to the Board's satisfaction, properly operate and maintain the permittee's reservoir.

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

Dated: January 4, 1973

ABSENT

W. W. Adams, Chairman

RONALD B. ROBIE

Ronald B. Robie, Vice Chairman

E. F. DIBBLE

E. F. Dibble, Member

ROY E. DODSON

Roy E. Dodson, Member

MRS. CARL H. (JEAN) AUER

Mrs. Carl H. (Jean) Auer, Member