

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 23944)
of Reynold C. Johnson Company)
to Appropriate from Singer Creek)
in Tehama County)

Decision 1413

DECISION APPROVING APPLICATION

Reynold C. Johnson Company having filed Application 23944 for a permit to appropriate unappropriated water; a protest having been received; the applicant 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 Application

1. Application 23944 is for a permit to appropriate one cubic foot per second by direct diversion from April 1 to November 15 of each year for irrigation purposes from Singer Creek in Tehama County. The point of diversion is to be located 1,200 feet north and 1,800 feet east of SW corner of Section 27, T24N, R1W, MDB&M.

Applicant's Project

2. The applicant proposes appropriation of water from Singer Creek for irrigation of pasture land on the Johnson Company ranch. The water proposed for diversion will supplement

water presently being pumped from wells. Return flow from the wells to Singer Creek would also be pumped and used on the same land.

The water which is covered by the application originates from the Deer Creek Irrigation District Canal, which is spilled into a ravine commonly known as Porcupine Creek and flows several miles to Singer Creek. The point of diversion in Singer Creek would be located on the applicant's property a few hundred feet downstream from the inflow of Porcupine Creek. At the point of diversion there are several deep holes which collect the water and would provide for accumulation of the water for pumping purposes.

Protest

3. Howard Wurlitzer protested the application on the ground that it would interfere with his in-channel recreational use of water under riparian and pre-1914 appropriative rights.

Protestant utilizes the water which flows from the Johnson Company ranch across State Highway 99 and onto his property in the channel. The channel in this area has deepened or eroded by natural means for a distance of about one-eighth of a mile. In this area trees and native shrubbery have grown up, making an attractive recreational area. Protestant uses this channel area for fishing, swimming and boating.

Because the water applied for is foreign water spilled by the Deer Creek Irrigation District, which was formed in 1926, protestant has no valid claim to this water as a riparian owner, and since he has not filed for a permit, he has no appropriative right.

Availability of Unappropriated Water

4. 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.

5. The intended use is beneficial.

From the foregoing findings, the Board concludes that Application 23944 should be approved and that a permit should be issued to the applicant 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 23944 and all relevant information on file therewith, particularly the reports of field investigations made August 18, 1972 and September 21, 1972.

ORDER

IT IS HEREBY ORDERED that Application 23944 be approved 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 one cubic foot per second by direct diversion from April 1 to November 15 of each year.

The maximum amount diverted under this permit shall not exceed 200 acre-feet per year.

2. During the period between June 15 and September 1 when hydraulic continuity exists between permittee's diversion point and the Sacramento River, permittee shall not divert water but shall open his diversion works and allow the water to flow downstream.

3. 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.

4. The amount authorized for appropriation may be reduced in the license if investigation warrants.

5. 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.

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

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

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

9. 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.

10. 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.

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.

12. To the extent that water available for use under this permit is imported water spilled from Deer Creek Irrigation District canal, this permit shall not be construed as giving any assurance that such imported water supply will continue.

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