

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

1418

In the Matter of Application 23786)
of John R. and Thelma M. Lemaster)
to appropriate from an Unnamed) Decision 1418
Spring Tributary to Redwood Creek)
in Madera County.)

DECISION APPROVING APPLICATION

John R. and Thelma M. Lemaster having filed Application 23786 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:

Applicants' Project

1. Application 23786, as amended, is for a permit to appropriate 600 gallons per day (gpd) by direct diversion from January 1 to December 31 of each year, total annual appropriation not to exceed 0.4 acre-foot, for domestic purposes from an unnamed spring tributary to Redwood Creek, thence Nelder Creek, Lewis Fork Fresno River, Fresno River, and San Joaquin River in Madera County. The point of diversion is to be located in Lot 6 of Section 5, T7S, R22E, MDB&M.

2. The source is a spring in the Sierra foothills located within the Sierra National Forest. The applicants have secured from the U. S. Forest Service a special use permit which authorizes access to the spring and a pipeline to carry the water several hundred feet to property owned by the applicants.

3. Originally the application was filed for 10,000 gpd and included proposed irrigation of three acres of orchard and an annual appropriation not to exceed seven acre-feet. Subsequent to issuance of the special use permit, the forest ranger recommended that the amount of water to be appropriated pursuant to this application be limited to that needed for one household, which he set at 600 gpd. "Any greater removal of water would be to the detriment of wildlife." On July 26, 1972, the applicants amended the application to 600 gpd and deleted their original proposal to irrigate three acres of orchard.

Protests

4. Four protests were filed, based upon the 10,000 gpd originally requested by applicants. One protest was subsequently withdrawn. The U. S. Bureau of Reclamation requested a permit condition which provides that upon commencement of storage in Hidden Reservoir, no water shall be diverted by the permittee if, in the absence of the diversion, water would reach the reservoir. The protest of the Madera Irrigation District requested the same permit condition. On July 26, 1972, when the Board conducted its field investigation of this application, the flow of water from the spring was measured at 766 gpd and the water was disappearing into the ground about 50 feet below the spring. In view of these findings

it is highly doubtful that this water would ever reach Hidden Reservoir. The Bureau was so advised. Since the permit term requested by the Bureau would be meaningless, it is not approved.

5. The protest of the Department of Fish and Game states that diversion of any amount of water from this spring would be detrimental to wildlife populations and their habitat. "Wildlife species common to the diversion site include deer, bear, mountain quail, and a variety of song birds Inspection of spring during August, 1971, revealed practically no flow with barely enough water to provide drinking water for birdlife."

Wildlife Requirements

6. The habitat for wildlife above the spring would not be affected by the proposed diversion. Less than 100 square feet of sparse channel habitat exists below the point of diversion and above the point where the surface flow disappears into talus in the channel.

7. Wildlife requirements of water at the spring constitute a beneficial use of water. The relatively small habitat near the spring indicates that the spring would probably serve no more than 10 deer, 200 birds, and occasional other animals. A permit term will require installation of a facility to provide a reasonable supply of water for wildlife needs.

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 23786, as amended, 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 23786 and all relevant information on file therewith, particularly the report of field investigation made July 26, 1972.

ORDER

IT IS HEREBY ORDERED that Application 23786, as amended, be 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 for domestic purposes at one single-family residence and related grounds and shall not exceed 600 gallons per day by direct diversion from January 1 to December 31 of each year. The maximum amount diverted under this permit shall not exceed 0.4 acre-foot per year.
2. Permittee shall install and maintain a watering device to assure the continuing availability of water to such wildlife as frequent the spring area.
3. The maximum 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..

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

Dated: February 15, 1973

W. W. ADAMS
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