

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 23459)
of George A. Shirokow to appropriate)
from Arnold Creek, Tributary to Fine) Decision 1423
Gold Creek, Thence San Joaquin River,)
in Madera County.)
_____)

DECISION DENYING APPLICATION

George A. Shirokow having filed Application 23459 for a permit to appropriate unappropriated water; protests having been received; the applicant 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 Application

1. Application 23459 is for a permit to appropriate 19.5 acre-feet per annum (afa) by storage to be collected from December 1 of each year to March 15 of the succeeding year for stockwatering, recreational and wildlife enhancement purposes from Arnold Creek in Madera County. The point of diversion is to be located within the NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 9, T8S, R22E, MDB&M.

Applicant's Project

2. Applicant's project consists of an existing earth-fill dam about 240 feet long, 20 feet high, across Arnold Creek.

The spillway is approximately 20 feet wide with a concrete check structure consisting of two channels each of which is approximately six feet wide. There is no outlet pipe in the dam.

The applicant has stated that the reservoir was already constructed when he purchased the property. The applicant estimates that the construction took place during the period 1956 to 1959.

Protests

3. The U. S. Bureau of Reclamation (hereinafter referred to as "Bureau") has protested the application on the basis of interference with its rights under License 1986 and Permits 11885, 11886 and 11887 covering a portion of its Central Valley Project. The Bureau states that the subject project would reduce the streamflow entering Millerton Lake (Friant Dam) on the San Joaquin River. The Bureau is agreeable to having its protest dismissed if the applicant will institute and maintain a range management program which would develop sufficient additional runoff to satisfy the application.

Availability of Unappropriated Water

4. Decision No. 935 (USBR Friant Project) does not specifically state that approval of the Bureau's applications to divert and store water at Friant Dam would result in full appropriation of the San Joaquin River. However, a full reading of the decision establishes clearly that the State Water



Rights Board regarded its granting of a permit for 6,500 cubic feet per second and 2,210,000 afa to the Bureau as equivalent to full appropriation of the river. The Board concluded that the amount of unappropriated water at Friant Dam averaged at least 250,000 afa and exceeded 2,000,000 afa in wet years. Parties to the hearing made estimates of the amount of unappropriated water ranging from 5,600 afa to 675,823 afa.

The Board, in Decision 935, denied other applications for water of the San Joaquin River and held that "the evidence clearly shows that all of the applications under consideration cannot be approved." The Board also held that after granting the permits to the Bureau any unappropriated water would be available in only wet years. These wet years would occur on the average of one year out of four.

In view of Decision 935 it must be concluded that there is no unappropriated water remaining above Friant Dam in most years.

Salvaged Waters

5. Subsequent to Decision 935 the Board has granted seven permits for appropriation of water in the San Joaquin watershed above Friant Dam. All of these permits were granted on the basis that the applicants had conducted a range management program that salvaged an amount of water equal to or greater than the amount stated in the permit.

The applicant has been informed that clearing of 60 acres of land would salvage sufficient water for the granting of a permit. Since October of 1970 the applicant's representative has notified the Board three times, (May and August of 1971 and in June of 1972) that the clearing operation was complete. Following each notification a staff engineer has made an on-site investigation of the project. During one visit it was estimated that 40 acres had been cleared. However, during subsequent visits, stadia and pacing measurements have indicated a maximum clearing of approximately 20 acres. Regrowth has been extensive in the cleared areas and during the last visit (July 1972) it was estimated that only 16 acres had been effectively cleared.

Therefore the Board finds that the applicant has failed to complete and maintain a range management program sufficient to salvage the required amount of water.

From the foregoing findings, the Board concludes that Application 23459 should be denied.

The records, documents, and other data relied upon in determining the matter are: Application 23459 and all relevant information filed therewith, and Decision 935.

ORDER

IT IS HEREBY ORDERED that Application 23459 be denied.

Dated: April 19, 1973

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

RONALD B. ROBIE
Ronald B. Robie, Vice Chairman

ROY E. DODSON
Roy E. Dodson, Member

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

W. DON MAUGHAN
W. Don Maughan, Member

All of the other issues raised by the petitioners were considered in arriving at Decision 1422, and no modification of the decision is warranted by reason of their arguments.

IT IS ORDERED that the petitions for reconsideration of Decision 1422 and the Bureau's supplemental petition are denied.

Dated: May 17, 1973

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

RONALD B. ROBIE
Ronald B. Robie, Vice Chairman

ABSENT

Roy E. Dodson, Member

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

W. DON MAUGHAN
W. Don Maughan, Member