

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Applications 23343,
23344, and 23345 of Honcut Creek Ranch,
Yosuba Farms, and Sam Zall, respectively,
to Appropriate from South Honcut Creek
in Yuba County.

Decision 1476

DECISION APPROVING APPLICATIONS IN PART

BY BOARD MEMBER ADAMS:

Honcut Creek Ranch, Yosuba Farms, and Sam Zall having filed Applications 23343, 23344, and 23345, respectively, for permits to appropriate unappropriated water; protests having been received; a public hearing having been held before the State Water Resources Control Board on January 12, 1972; applicants and protestants having appeared and presented evidence; the evidence received at the hearing having been duly considered, the Board finds as follows:

Substance of Applications

1. Applications 23343, 23344, and 23345 are for permits to appropriate 73.4 cubic feet per second (cfs), 28.9 cfs, and 10.6 cfs, respectively, by direct diversion from April 1 of each year to January 20 of the succeeding year for agricultural, irrigation and wildlife conservation purposes from South Honcut Creek in Yuba County. Common points of diversion are to be located within the SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 28 and NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of projected Section 29, T17N, R4E, MDB&M.

Applicants' Projects

2. Applicants Honcut Creek Ranch, Yosuba Farms, and Sam Zall are located on South Honcut Creek approximately four miles above

April. This finding was based on the records of a U. S. gaging station ("Near Bangor") on South Honcut Creek approximately 12 miles above Honcut Creek Ranch. Based on the same records, and using the same technique of area proration as was used in that decision, unappropriated water is available to supply the applicants from November 1 of each year to April 15 of the succeeding year, and, subject to suitable conditions, such water can be diverted and used without causing substantial injury to any lawful user of water.

5. The intended uses are beneficial.

Proposed Special Terms

6. During the hearing, the Bureau suggested a permit term which would allow the applicants to divert during the summer months when there is no hydraulic continuity between the applicants' points of diversion and the Feather River (RT46). As Honcut Creek contains imported water from Browns Valley Irrigation District during the summer months there is a problem of establishing when there is hydraulic continuity between the two points. The record was left open for a period of 60 days in order to give the parties an opportunity to suggest a special permit term agreeable to all of them which would solve this problem and also to receive their comments on other issues (RT 51, 53). No mutually agreeable terms have been received and the parties requested that the matter be submitted on the record.

From the foregoing findings, the Board concludes that Applications 23343, 23344, and 23345 should be approved in part and that permits should be issued to the applicants subject to the limitations and conditions set forth in the order following.

ORDER

IT IS HEREBY ORDERED that Applications 23343, 23344, and 23345 be, and they are, approved in part, and that permits be issued to the applicants subject to vested rights and to the following limitations and conditions:

1. The water appropriated under the permits pursuant to Applications 23343, 23344, and 23345 shall be limited to the quantity which can be beneficially used and shall not exceed 73.4 cubic feet per second (cfs), 28.9 cfs and 10.6 cfs, respectively, by direct diversion from April 1 to April 15 of each year and from November 1 of each year to January 20 of the succeeding year. The equivalent of the continuous flow allowance for any 30-day period may be diverted in a shorter time, provided there be no interference with other vested rights and instream beneficial uses; and provided further that all terms or conditions protecting instream beneficial uses be observed. The maximum amounts diverted under these permits shall not exceed 4,320 acre-feet per annum (afa), 2,170 afa, and 770 afa, respectively.

2. 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.

3. The maximum quantities herein stated may be reduced in the license if investigation warrants.

4. Complete application of the water to the proposed use shall be made on or before December 1, 1981.

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

6. Pursuant to California Water Code Section 100, all rights and privileges under this permit and under any license issued pursuant thereto, 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.

This continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to minimizing waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement such programs as (1) reusing or reclaiming the water allocated; (2) restricting diversions so as to eliminate agricultural 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. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

7. 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.

8. 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.

9. Upon a judicial determination that the place of use under the permit issued pursuant to Application 23343 or a portion thereof is entitled to the use of water by riparian and/or pre-1914 appropriative right, the rights so determined and the right acquired under this permit shall not result in a combined right to the use of water in excess of that which could be claimed under the largest of the rights.

10. In compliance with Section 5937 of the Fish and Game Code, the permittee shall allow sufficient water at all times to pass through a fishway, or in the absence of a fishway, allow sufficient water to pass over, around, or through the dam to keep in good condition any fish that may be planted or exist below the dam; provided that during a period of low flow in the stream, upon approval of the Department of Fish and Game, this requirement will be satisfied if sufficient water is passed through a culvert, waste gate, or over or around the dam to keep in good condition any fish that may be planted or exist below the dam if it is impracticable or detrimental to pass the water through a fishway.

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

Dated: November 17, 1977

WE CONCUR:

/s/ W. W. ADAMS
W. W. Adams, Member

/s/ JOHN E. BRYSON
John E. Bryson, Chairman

/s/ W. DON MAUGHAN
W. Don Maughan, Vice Chairman

7



the junction of North Honcut Creek and South Honcut Creek. Honcut Creek continues approximately three miles to enter the Feather River. The applicants have common points of diversion at a regulatory reservoir on the creek and at another point approximately one-half mile downstream. Both points of diversion are within the boundaries of the Honcut Creek Ranch. In recent years the applicants have supplemented their supply of water from South Honcut Creek with water purchased from Browns Valley Irrigation District which is delivered to them either through South Honcut Creek or through an extensive ditch system they have constructed.

Honcut Creek Ranch uses the water to irrigate 1,343 acres of land and flood 500 acres of land for wildlife. Yosuba Farms has 722 acres in rice and also uses water for wildlife conservation. Sam Zall has 268 acres in rice and also uses water for wildlife conservation. The applicants' projects have been in existence since the year 1966 and no different use of water is contemplated in the future.

Protests

3. Protestant U. S. Bureau of Reclamation (hereinafter referred to as "Bureau") bases its protest on possible interference with its rights under its Permits 11968, etc., covering its Central Valley Project. The Bureau is agreeable to having its protests dismissed if no diversions are authorized during the period from May 1 to October 31 when there is hydraulic continuity between the applicants' points of diversion and the Feather River. The other protestants to Applications 23343, 23344, and 23345 failed to appear at the hearing in support of their protests.

Existence of Unappropriated Water

4. On March 6, 1969, the Board adopted its Decision 1335 which found unappropriated water in South Honcut Creek during the months of November through