

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 24624 )

DAVID AND IDA Y. HING )

Applicants )

ROBERT MANNY, ET AL., )

Protestants )

Decision: 1568

Source: Unnamed Stream  
(Eden Valley Creek)

County: Placer

DECISION APPROVING APPLICATION 24624 IN PART

BY THE BOARD

David and Ida Y. Hing, having filed Application 24624 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 by Section 737 of Title 23, California Administrative Code; an investigation having been made by the State Water Resources Control Board pursuant to said stipulations; the evidence received at the investigation having been duly considered; the Board finds as follows:

Substance of the Application

1. Application 24624 seeks a permit for storage of 25 acre-feet per annum (afa) from November 15 to May 15 from an unnamed stream tributary to Bear River in Placer County. Water is to be used for stockwatering, recreation and fire protection. The stream is known locally as Eden Valley Creek.

Applicant's Project

2. The applicants have constructed an earth dam 24 feet high by 500 feet long forming a reservoir with a capacity of about 25 acre-feet. The dam has a 12-inch outlet pipe and a concrete spillway about 10 feet wide. All uses will be made at the reservoir and there will be no facilities for removing the water for use in some other area.

Protestants

3. Application 24624 was protested by Robert Manny, Vera L. Whitman, (now Vera L. McElhannon), James F. and Ann Brady, Fines and Lela Carver, Virginia Lansing, Harold C. and Edith O. Burt, Gerald and Donna Robbins, Ollie and Janice Shepherd, Maurice and Edythe Campbell, Raymond W. and Dorothy R. Pohl, Eden Valley Improvement Club (Eden Valley) and South Sutter Water District (South Sutter).

4. Protestant Manny is concerned that the reservoir will raise the water table and cause failure of his septic tank. Manny is adjacent and just upstream from the Hing property. A second field investigation on September 7, 1978, disclosed no evidence to support the contention that the reservoir has increased groundwater levels so as to cause the septic tank to fail. County Health Department field tests on this allegation were negative.

5. South Sutter protested on the basis of existing permits for its Camp Far West Reservoir on Bear River about 24 miles downstream. It stated that its protest may be dismissed if the season of storage is reduced to the period December 1 to April 1 and if the permit is conditioned to require release from the Hing Reservoir if Camp Far West does not fill by April 1. To be consistent with prior decisions a release term will be included in any permit issued. The season of storage is discussed further in Finding 8.

6. The remaining protestants are or represent downstream property owners riparian to the unnamed stream. They do not divert water from the stream, but depend on it to subirrigate grass and trees, to supply limited stockwatering and to contribute to the groundwater basin. Most have wells and some have water available from Eden Valley Irrigation Association. They are all concerned about possible environmental damage by the project. One specific concern was that the wide concrete spillway will heat the water to a point where it will be too warm for trout and will cause growth of algae. A special permit term will be imposed to control this.

7. Mrs. Bobbie McKinley, an interested party, is the lowermost property owner on the unnamed stream. She claims that since prior to 1900, except for the four years prior to the investigation, water has been used on her 81 acres. She plans to begin diverting again and wants to be sure her rights are protected. Lack of seasonal overlap and amount of water generated in watershed indicate there should be no conflict.

#### Availability of Unappropriated Water

8. Since there are no records of streamflow for the unnamed stream, an analysis was made of the potential of the watershed to produce runoff. Using the watershed area, a very conservative 10 percent runoff factor and the records of the nearest two precipitation stations, it was found that the watershed would produce five to seven times as much runoff as required to fill the reservoir during an average year. Thus, water is physically available to satisfy Application 24624. Prior Board Decision D993 found unappropriated water available in streams above Camp Far West Reservoir from December 1 to April 30. This same season is proper for Application 24624.

9. The proposed uses are beneficial.

#### Environmental Considerations

10. Numerous adverse comments were received from local residents to the Board's initial study and negative declaration. A field investigation was held to observe the project and evaluate the comments. Staff determined that the reservoir is acting as a settling pond for upstream silt loads and is an enhancement in that respect. The staff report also states that to mitigate adverse environmental impacts, terms should be included in the permit to reduce the temperature of the water downstream and to minimize mosquito production and odor problems. Those terms are included in the order.

11. The Board has prepared a Negative Declaration in accordance with the California Environmental Quality Act (Public Resources Code, Section 21000, et seq.) and the State Guidelines, and the Board determines that there will be no significant effect on the environment as a result of the project.

Record in this Matter

12. The records, documents and data used in determining this matter are: Application 24624 and all relevent information on file therewith, especially the Report of Field Investigation and Engineering Staff Analysis dated August 20, 1976; Environmental Field Review dated March 13, 1979; Climatological Data produced by the National Oceanic and Atmospheric Administration; and topographic maps of the area under consideration.

Conclusions

13. From the foregoing findings, the Board concludes that Application 24624 should be approved, in part, and a permit issued to the applicants subject to the conditions set forth in the order following.

ORDER

IT IS HEREBY ORDERED that Application 24624 be approved and a permit issued to the applicants subject to vested rights. The permit shall contain all applicable standard terms (5i, 6, 10, 11, 12 and 13)\* in addition to the following conditions:

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\*The Board maintains a list of standard terms. Copies may be obtained upon request.

1. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 25 acre-feet per annum to be collected from December 1 of each year to April 30 of the succeeding year.

2. Complete application of the water to the authorized use shall be made on or before December 1, 1984.

3. Permittees shall maintain an outlet pipe of adequate capacity in the dam as near as practicable to the bottom of the natural stream channel in order that water entering the reservoir which is not authorized for appropriation under this permit may be released.

4. Permittees shall install and maintain devices satisfactory to the Board to measure (a) water flowing into the reservoir and (b) water flowing below the downstream toe of the dam.

5. In order to minimize any rise in temperature of the water flowing downstream from the dam, the permittees shall until further order of the Board, following notice to the parties and opportunity for hearing, between May 1 and October 1, adjust the controls on the outlet pipe so that the flow from the pipe is equal to the inflow to the reservoir or the full capacity of the outlet pipe, whichever is less.

6. In order to minimize mosquito and odor problems associated with organic decomposition, permittees shall not allow vegetation to proliferate within one foot of the high water mark of the reservoir.

7. If South Sutter Water District's Camp Far West Reservoir does not fill during the period from November 1 of each year to April 30 of the succeeding year, permittees shall release the quantity of water stored during the preceding storage season, December 1 to April 30, but not exceeding the amount by which Camp Far West Reservoir did not fill. The water stored by permittees shall be deemed to be the water in storage in the reservoir on April 30 less the amount in storage on the previous December 1. Permittees duty to release water under this condition shall arise only after any junior appropriator has released water stored adversely to Camp Far West Reservoir.

8. In order to comply with the foregoing term the permittee shall install and maintain in the reservoir a staff gage meeting the approval of the State Water Resources Control Board for the purpose of determining water levels in the reservoir. The water level shall be recorded on April 30 and December 1 of each year and such records shall be made available to the Board on request.

Dated: October 16, 1980

/s/ CARLA M. BARD  
Carla M. Bard, Chairwoman

/s/ WILLIAM J. MILLER  
William J. Miller, Vice-Chairman

/s/ L. L. MITCHELL  
L. L. Mitchell, Member

/s/ JILL B. DUNLAP  
Jill B. Dunlap, Member

ABSENT  
F. K. Atjibury, Member