

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 25835)
CLIFFORD AND DELORES DEWITT)
Applicants)
PACIFIC GAS AND ELECTRIC COMPANY)
Protestant)

Decision: 1583
Source: Unnamed stream
County: Modoc

DECISION APPROVING APPLICATION 25835 IN PART

BY THE BOARD:

Clifford and Delores DeWitt having filed Application 25835 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 stipulations; the Board having considered all available information, finds as follows:

Substance of the Application

1. Application 25835 is for a permit to collect 47.7 acre-feet per annum (afa) to storage from October 15 to April 1 from an unnamed stream tributary to North Fork Pit River for irrigation, stockwatering, recreation and fire protection. Water will be collected at a point within the SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 11, T43N, R13E, MDB&M.*

* All references to township and range refer to Mount Diablo Base and Meridian (MDB&M).

Applicant's Project

2. The applicant proposes to store water in an existing 40.1 acre-foot reservoir which has a surface area of 5.1 acres. The earthfill dam, constructed in 1978, is 21.9 feet high and 345 feet long. A 20-horsepower pump has been installed on a floating platform to divert water for sprinkler irrigation of 40 acres of alfalfa. The reservoir will also be used to water approximately 100 head of livestock.

Protest

3. Pacific Gas and Electric Company (PG&E) filed a protest against Application 25835 on the basis that the proposed appropriation would reduce the natural flows in the Pit River to which it is entitled under riparian and prior appropriative rights. The following are rights on the Pit River as claimed by PG&E:

(a) The right to divert the natural flow from Pit River, and its tributaries in the SE $\frac{1}{4}$ of Section 30, T37N, R3E at Lake Britton Reservoir, 3,000 cubic feet per second (cfs) into Pit 3 Tunnel for power use at Pit 3 Power Plant under licensed Application 1891 with priority of July 2, 1920.

(b) The right to divert the natural flow from Pit River and its tributaries in the SE $\frac{1}{4}$ of Section 8, T36N, R3E at Pit 4 Diversion Dam, 3,500 cfs into Pit 4 Tunnel for power use at Pit 4 Power Plant under licensed Applications 1892 and 14928, with priorities of July 2, 1920 and July 28, 1952, respectively.

(c) The right to divert the natural and/or augmented flow from Pit River and its tributaries in the NE $\frac{1}{4}$ of Section 9, T36N, R1E at Pit 5 Diversion Dam up to the capacity of the diversion works into Pit 5 Tunnel for power use at Pit 5 Power Plant under riparian rights and continuous use since April 29, 1944.

(d) The right to divert the natural and/or augmented flow from Pit River and its tributaries to storage in the NE¼ of Section 16, T35N, R1W at Pit 6 Diversion Dam, 4,500 cfs for power use at Pit 6 Power Plant under licensed Application 14743, with priority of April 7, 1952.

(e) The right to divert the natural and/or augmented flow from Pit River and its tributaries to storage in the NE¼ of Section 16, T35N, R1W at Pit 6 Diversion Dam, 15,000 afa and divert a maximum of 8,000 af of storage to power use at Pit 6 Power Plant under licensed Application 14743, with priority of April 7, 1952.

(f) The right to divert the natural and/or augmented flow from Pit River and its tributaries in the NE¼ of Section 32, T35N, R1W at Pit 7 Diversion Dam, 4,850 cfs for power use at Pit 7 Power Plant under licensed Application 15407, with priority of July 9, 1953.

(g) The right to divert the natural and/or augmented flow from Pit River and its tributaries to storage in the NE¼ of Section 32, T35N, R1W, at Pit 7 Diversion Dam, 15,500 afa and divert a maximum of 14,800 af from storage to power use at Pit 7 Power Plant under licensed Application 15407, with priority of July 9, 1953.

PG&E claims that these rights are satisfied when flow in the Pit River at the USGS Gaging Station near Canby reaches 300 cfs.

4. PG&E submitted several different private agreements with terms and conditions under which it would dismiss its protest.. All of these agreements were rejected by the applicant as being impractical and too demanding.

Availability of Unappropriated Water

5. Meetings were held with PG&E to establish a method to be used in determining when unappropriated water is available in the upper end of the Pit River watershed. PG&E stated that when the flow is sufficient to satisfy its rights at Pit 4 and Pit 5 powerhouses, all of its rights on the Pit River are fulfilled.

6. Because of the distance from the Pit 4 powerhouse to proposed upstream diversion, PG&E suggested that flow at the Canby gaging station be correlated with the flow at the Pit 4 powerhouse to determine when its rights are satisfied. PG&E submitted flow records from the Canby gaging station and the Pit 4 powerhouse which indicate that a flow of at least 300 cfs at the Canby gage will satisfy PG&E's licenses for 3,500 cfs at Pit 4 powerhouse. A comparison of these flow records indicates that 300 cfs at the Canby gage is a reasonable criteria to regulate times of diversion in this area.

7. The following table lists the number of days in each month when the flow at the USGS Gaging Station near Canby exceeded 300 cfs.

Number of Days in Each Month When Flow Exceeded 300 CFS

<u>YEAR</u>	<u>OCT</u>	<u>NOV</u>	<u>DEC</u>	<u>JAN</u>	<u>FEB</u>	<u>MAR</u>	<u>APR</u>	<u>MAY</u>	<u>JUN</u>	<u>JUL</u>	<u>AUG</u>	<u>SEP</u>
1980				17	20	29	15	30	8			
79				1	5	18	18	21				
78			2	11		5	29	16				
77								3				
76						11	2	6				
75					10	27	30	31	23			
74	1	8	15	1	28	31	30	26	1			
73			6	7	13	7	27	29				
72				8	22	31	30	26	10			
71		10	12	15	21	19	30	31	30	12		
1970			7	20	24	26	3	27	11	1		
69				18	24	15	30	29	16			
68				3	20	2		3				

Number of Days in Each Month When Flow Exceeded 300 CFS

<u>YEAR</u>	<u>OCT</u>	<u>NOV</u>	<u>DEC</u>	<u>JAN</u>	<u>FEB</u>	<u>MAR</u>	<u>APR</u>	<u>MAY</u>	<u>JUN</u>	<u>JUL</u>	<u>AUG</u>	<u>SEP</u>
1967		1	8	3	12	8	16	31	23			
66						9						
65			15	31	28	18	29	28	18			
64						12	5	17	28			
63	17		11	1	18	4	30	31	7			
62					10	17	8	10	4			
1961						3			2			

Average Monthly Flow in CFS

<u>OCT</u>	<u>NOV</u>	<u>DEC</u>	<u>JAN</u>	<u>FEB</u>	<u>MAR</u>	<u>APR</u>	<u>MAY</u>	<u>JUN</u>	<u>JUL</u>	<u>AUG</u>	<u>SEP</u>
119	110	194	445	395	500	458	466	313	74	56	57

8. The record of the 20 years listed above indicates that for the months of October, November and December, there are very few days when the flow exceeds 300 cfs. These records also indicate that, except for dry years, the flow during January through May will normally exceed 300 cfs a sufficient number of days to allow appropriation without causing injury to PG&E's prior downstream rights. Therefore, diversions in the upper end of the Pit River watershed should be restricted to the period January 1 to May 30. For Application 25835 the season should be restricted to the period January 1 to April 1 since the diversion season allowed cannot exceed the season originally requested in the application.

9. The applicant has stated that during the 23 years they owned the property, water runs in the unnamed stream only during wet years when the flow in the Pit River is high. The main source of runoff is from snow melt in late winter or early spring, or when there is above normal rainfall in the fall months. This coincides with the flow records at the Canby Gage. The watershed tributary to the reservoir is approximately 1,600 acres, with an average precipitation of about 16 inches per year.

Environmental Considerations

10. This Board decision authorizes a project which constitutes only a minor modification to land, water, and vegetation, and such projects are thereby exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Section 21000 et. seq.) in accordance with Section 15104; Chapter 3, Title 14, California Administrative Code.

Record in this Matter

11. The records, documents, and information used in deciding this matter are: Application 25835, and all information on file therein, especially the Engineering Staff Analysis of Record dated January 11, 1982; flow records from Pit 4 Powerhouse and USGS Gaging Station near Canby submitted by PG&E; topographic maps published by the United States Geological Survey covering the area under consideration; United States Department of Commerce, National Oceanic and Atmospheric Administration, Climatological Data for California, for the period of published record; United States Department of Interior, Geological Survey, Water Resources Division, "Water Resources Data for California, Volume 4, Northern Central Valley Basins and the Great Basin from Honey Lake Basin to Oregon State Line", and all appropriate publications.

Conclusions

12. From the foregoing, the Board concludes that water is available in normal years from January 1 through May 30, and that Application 25835 should be approved in part, and a permit issued to the applicant subject to the limitations and conditions set forth in the order following:

ORDER

IT IS HEREBY ORDERED that Application 25835 be approved in part and that a permit be issued to the applicant subject to vested rights. The permit shall contain all applicable standard permit terms (5i, 6, 10, 11, 12, and 13)* in addition to the following conditions:

1. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 47.7 acre-feet per annum to be collected from January 1 to April 1 of each year.

2. Permittee shall store water only when the flow at the Canby Gaging Station on the Pit River exceeds 300 cubic feet per second.

3. Permittee shall install and maintain an outlet pipe of adequate capacity in the dam as near as practicable to the bottom of the natural stream channel, or provide other means satisfactory to the State Water Resources Control Board, in order that water entering the reservoir which is not authorized for appropriation under this permit may be released.

4. Permittee shall install and maintain in the reservoir a staff gage meeting the approval of the State Water Resources Control Board for the purposes of determining water levels in the reservoir.

5. Permittee shall supply the staff gage readings of October 1, January 1, February 1, March 1, and April 1, on or about April 15 of each year to the State Water Resources Control Board.

*The Board keeps a list of standard permit terms. Copies of these are obtainable upon request.

6. Permittee shall allow a designated representative of PG&E reasonable access to the reservoir for the purpose of determining whether water should be released in accordance with the conditions of this permit. In no event shall permittee be obligated to release water below the previous October staff gage reading.

7. The State Water Resources Control Board reserves jurisdiction over this permit to change the season of diversion to conform to the results of a comprehensive analysis of the availability of unappropriated water in the Sacramento River Basin. Action to change the season of diversion will be taken only after notice to interested parties and opportunity for hearing.

8. This permit is subject to prior rights. Permittee is put on notice that during some years water will not be available for diversion during portions or all of the season authorized herein. The annual variations in demands and hydrologic conditions in the Sacramento River Basin are such that in any year of water scarcity the season of diversion authorized herein may be reduced or completely eliminated on order of this Board made after notice to interested parties and opportunity for hearing.

9. No diversion is authorized by this permit when satisfaction of inbasin entitlements requires release of supplemental Project water by the Central Valley Project or the State Water Project.

a. Inbasin entitlements are defined as all rights to divert water from streams tributary to the Sacramento-San Joaquin Delta or the Delta for use within the respective basins of origin or the Legal Delta, unavoidable natural requirements for riparian habitat and conveyance losses, and flows required by the Board for maintenance of water quality and fish and wildlife. Export diversions and Project carriage water are specifically excluded from the definition of inbasin entitlements.

b. Supplemental Project water is defined as water imported to the basin by the projects, and water released from Project storage, which is in excess of export diversions, Project carriage water, and Project inbasin deliveries.

The Board shall notify the permittee of curtailment of diversion under this term after it finds that supplemental Project water has been released or will be released. The Board will advise the permittee of the probability of imminent curtailment of diversion as far in advance as practicable based on anticipated requirements for supplemental Project water provided by the Project operators.

Dated: June 17, 1982


Carla M. Bard, Chairwoman


L. L. Mitchell, Vice-Chairman


Jill B. Dunlap, Member


F. K. Aljibury, Member