

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 21110)
of Floyd Myers Marsh and
Application 21250 of Estate of
Floyd J. Myers to Appropriate from
Cortina Creek in Colusa County

Adopted
March 2, 1966

ORDER REINSTATING AND AMENDING DECISION D 1202

On February 17, 1965, the State Water Rights Board adopted an "Order for Reconsideration of Decision D 1202" pursuant to a petition for reconsideration by Floyd Myers Marsh and the Estate of Floyd J. Myers. Said petition for reconsideration challenged the Board's finding that the water covered by the applications has hydraulic continuity with the Colusa Basin Drain.

Applicants have submitted copies of the findings and judgment of the Superior Court of Colusa County in the case of Freeman v. Kalfsbeek (Action No. 10977) in support of their contention that Cortina Creek ends at Ohm Road. The fact that Cortina Creek terminates at Ohm Road is not material to the issue of hydraulic continuity if the water in the creek reaches the Colusa Basin Drain.

The results of further field investigations of the flows of Cortina Creek during the months of July and

A to D 1202

August 1965 confirm the Board's finding in Decision D 1202 that substantially all the flow covered by the applications would, if not diverted, find its way to the Colusa Basin Drain or channels tributary to it, and that the Board was correct in ordering the deletion of the months of July and August from the permits to be issued on Applications 21110 and 21250. However, further studies being made by the Department of Water Resources and the U. S. Bureau of Reclamation are in progress to determine the extent of availability of unappropriated water in the Sacramento River and Delta, and the permits to be issued on Applications 21110 and 21250 should contain a permit term reserving jurisdiction in the Board in respect to the season of use under the permits so as to conform them with results of the pending study.

After consideration of further evidence, the Board finds that its Decision D 1202 was fair and should be reinstated with an additional permit term reserving jurisdiction in respect to the season of use under the permits. Also, because of the time that has elapsed since the decision was adopted, the dates specified in the decision for commencing and completing the appropriation of water should be advanced.

ORDER

IT IS HEREBY ORDERED that Decision D 1202 be, and it is, reinstated, and that paragraphs 3, 4 and 5 on page 4 be amended to read:

3. Actual construction work shall begin on or before September 1, 1966, and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked.

4. Construction work shall be completed on or before December 1, 1968.

5. Complete application of the water to the proposed use shall be made on or before December 1, 1969.

IT IS FURTHER ORDERED that the following additional term be included in the permits issued on Applications 21110 and 21250:

9. The State Water Rights Board reserves jurisdiction over this permit for the purpose of conforming the season of diversion to later findings of the Board on other 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.

Adopted as the order of the State Water Rights Board at a meeting duly called and held in Sacramento, California, this _____ day of _____, 1966.

/s/ Kent Silverthorne
Kent Silverthorne, Chairman

/s/ Ralph J. McGill
Ralph J. McGill, Member

/s/ W. A. Alexander
W. A. Alexander, Member