

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

IN THE MATTER OF TEMPORARY)
PERMIT 20184 (APPLICATION 29093))
BEDFORD PROPERTIES)
Permittee)

ORDER: WR 88- 1
SOURCE: HOLLAND CUT
COUNTY: CONTRA COSTA

FINDINGS AND ORDER VALIDATING
TEMPORARY PERMIT

Bedford Properties (hereinafter referred to as applicant), having filed Application 29093 for a conditional temporary urgency permit to divert and use water pursuant to Chapter 6.5 (commencing with Section 1425), Part 2, Division 2 of the Water Code; the Board having consulted with the Department of Fish and Game; the Board having reviewed available information including that submitted by the applicant; the State Water Resources Control Board finds as follows:

SUBSTANCE OF THE APPLICATION

1. Application 29093 is for a temporary urgency permit to one-time fill two shallow offstream reservoirs with a combined capacity of 1,160 acre-feet on Holland Tract in the Sacramento-San Joaquin Delta. Water would be diverted from December 15, 1987 to May 1, 1988. The purpose of the one-time filling is to evaluate the effects of water submergence on plant growth and wildlife enhancement. Holland Reservoir, at the western side of the island, originally was proposed to be a 740 acre-foot capacity offstream reservoir with a surface area of 106 acres. Water would be diverted to the reservoir by gravity from Roosevelt Cut via a 16-inch diameter buried steel

pipe siphon. Test Reservoir, at the eastern side of the island originally was proposed to be a 420 acre-foot capacity offstream reservoir with a surface area of 90 acres. Water would be diverted to the reservoir by gravity from Holland Cut via a 16-inch diameter buried steel siphon. The maximum rate of diversion to offstream storage in both reservoirs would not exceed 60 cubic feet per second. All stored water will be released back to the Delta during the months of May, June and July. The project is located on Holland Tract in the Sacramento-San Joaquin Delta and is approximately 18 miles west of Stockton.

PENDING WATER RIGHTS APPLICATIONS

The following four pending applications that were filed by the applicant on July 9, 1987. The applicant requests appropriations for municipal, irrigation and domestic uses all within the service areas of the California Department of Water Resources' State Water Project and the U.S. Bureau of Reclamation's Central Valley Project.

- a) APPLICATION 29061: The applicant proposes to construct a 96,070 acre-foot capacity offstream reservoir with a surface area of 4,630 acres. The proposed reservoir will cover all that portion of Bouldin Island south of State Highway 12. Water will be diverted to the reservoir by gravity flow from Little Potato Slough, Mokelumne River,

the San Joaquin River and Potato Slough via various existing siphons and gates in the existing levees and a proposed set of five 48-inch diameter pipe siphons. The maximum rate of diversion to offstream storage will not exceed 3,000 cubic feet per second.

- b) APPLICATION 29062: The applicant proposes to construct a 106,900 acre-foot capacity offstream reservoir with a surface area of 5,260 acres. The proposed reservoir will cover all of the property located within Webb Tract. Water will be diverted to the reservoir by gravity flow from Old River, False River, Fishermans Cut, and the San Joaquin River via various existing siphons and gates in the existing levees and a proposed set of ten 48-inch diameter pipe siphons. The maximum rate of diversion to offstream storage will not exceed 5,000 cubic feet per second.

APPLICATION 29063: The applicant proposes to construct a 69,050 acre-foot capacity offstream reservoir with a surface area of 4,100 acres. The proposed reservoir will cover all of the property located within Holland Tract. Water will be diverted to the reservoir by gravity flow from Holland Cut, Rock Slough, Sand Mound Slough, and Roosevelt Cut via various existing siphons and gates in the existing levees and a proposed set of four 48-inch diameter pipe siphons. The maximum rate of diversion to offstream storage will not exceed 3,000 cubic feet per second.

APPLICATION 29066: The applicant proposes to construct a 110,570 acre-foot capacity offstream reservoir with a surface area of 5,450 acres. The proposed reservoir will cover all of the property

located within Bacon Island. Water will be diverted to the reservoir by gravity flow from Middle River, Santa Fe Dredge Cut, Old River and Connection Slough via various existing siphons and gates in the existing levees and a proposed set of ten 48-inch diameter pipe siphons. The maximum rate of diversion to offstream storage will not exceed 5,000 cubic feet per second.

The above applications comply with Government Code Section 6594-3 and were noticed on December 4, 1987. The protest period extends to February 2, 1988. These four applications are being processed in accordance with the Board's prescribed procedures for processing water right applications.

Urgent Need of Applicant to Divert and Use Water

3. The applicant identifies an urgent need, preceeding operation under the four regular applications described above, to study the effects of submergence during winter months on plant survival and growth as related to wildlife enhancement. The application calls for diversion to offstream storage from December 15, 1987 through May 1, 1988 and releases back to Delta Channels during the months of May, June and July, 1988. The study will collect data on water diversions and response of selected plant species to different levels of water submergence, and will evaluate potential impacts on wildlife enhancement. The results of the study will indicate whether wildlife enhancement is a viable beneficial use for the operation of the projects proposed under the four regular applications.

The results of the study may also provide useful information relative to potential impacts of these applications. Terms have been included in the temporary permit requiring submission of diversion data and an evaluation of study results to the Board and any interested parties requesting such information.

Based on the above information, the Board concludes that the applicant has an urgent need to divert and use water as authorized by Temporary Permit 20184.

Effect of the Diversion on Any Lawful User of Water

4. Prior to issuance of the temporary permit, the application was noticed on September 15, 1987, as required by the Water Code. Notice was sent to all affected downstream diverters and interested parties known to the Board. The notice was published in the California Delta Newspaper. The following three objections were received:
 - a) The California Sportfishing Protection Alliance (SPA) expressed serious concerns against diversion and storage of 1,160 acre-feet in two offstream shallow reservoirs, particularly when four major filings for appropriations by the applicant are pending before the Board. However, SPA withdrew its objections when the applicant agreed to delete one of the two off-stream storage sites thereby reducing the amount of storage from 1,160 acre-feet to 420 acre-feet, limit the diversion season to the period when the Delta is "out of control", screen the intake pipe to the satisfaction of the Department of Fish and Game, and use the water diverted under the temporary permit to study the effects of water submergence on plant life and wildlife enhancement.

Response

Term 5 in the temporary permit authorizes diversion of 420 acre-feet from December 15, 1987 to February 29, 1988 which is within the period, when the Delta is "out of control" (Water Right Decision 1594, page 55, condition 30c(5)), and terms 9 and 14 require the permittee to submit diversion data and an evaluation report to the Board for review.

- b) The Delta Water Users Association (Association) expressed concerns that diversions by the applicant during the months of March and April will adversely affect the quality and quantity of water available to its members for irrigation under prior riparian and appropriative water rights. The Association was also concerned that the use of existing levees to impound water in offstream reservoirs may lead to significant damage by wave erosion against those levees thereby endangering the integrity of the levees and safety of the Delta islands.

The Association withdrew its objections when the applicant agreed to divert water only from December 15, 1987 to February 29, 1988 as well as not to use the existing levees for impounding water in the offstream reservoir.

Response

Term 5 of the temporary permit excludes March and April from the season of diversion and. Term 7 prohibits use of existing levees on Holland Tract as impounding facilities.

c. The California Department of Fish and Game (Department) filed an objection stating that both proposed off-stream reservoir sites, particularly the western site, contain riparian wetland habitats which support a variety of wildlife species. The proposed flooding would destroy the existing wetland habitats. The Department withdrew its objection when the applicant agreed to drop the western site thereby reducing the offstream storage from 1,160 to 420 acre-feet, screen the inlet to the gravity diversion pipe for the eastern offstream reservoir to the satisfaction of the Department, and divert during a limited season to study the effect of water submergence on plant life and wildlife enhancement.

Response

Term 6 of the temporary permit prohibits diversion under the temporary permit until the Department determines that measures to protect fishlife have been incorporated into the diversion works.

As the objections have been resolved, the Board concludes that water may be diverted and used under Temporary Permit 20184 without injury to any lawful user of water.

Effects of the Diversion on Fish, Wildlife and Other Instream Uses

5. Board staff consulted with the California Department of Fish and Game, whose concerns have been addressed by condition 6 incorporated into the temporary permit. Since the shortened diversion season is during winter months when the Delta is not under control, and the purpose of the temporary diversion is to study the effect of water submergence on plant life and wildlife enhancement, the concerns of the California Sportfishing

Alliance were satisfied. Therefore, the Board concludes that water may be diverted and used under the temporary permit without any unreasonable adverse effect upon fish, wildlife, or other instream beneficial uses.

Finding Concerning the California Environmental Quality Act

6. An environmental analysis has shown that the project meets the requirements of Section 15306 of the California Administrative Code, Title 14 and is a Class 6 Categorical Exemption (Information Collection).

Public Interest

7. The Board concludes that diversion and use of water under Temporary Permit 20184 is in the public interest and in accordance with the constitutional policy that the water resources of the State be put to beneficial use to the fullest extent of which they are capable.

Issuance of Temporary Permit

8. Water Code Section 1425 provides for delegation of the authority to issue temporary permits. The Board has delegated this authority to each member. Section 1425 further requires that when the delegated authority is exercised, the Board shall, not later than 30 days following issuance, review and validate any temporary permit issued.

Board staff explained the foregoing situation to Board Chairman Maughan and recommended approval of the temporary permit. Board Chairman Maughan concurred with the staff recommendation, and on December 9, 1987 authorized issuance of the temporary permit. On December 14, 1987, Walter G. Pettit, Chief of the Division of Water Rights, issued Temporary Permit 20184.

ORDER

NOW THEREFORE IT IS ORDERED THAT issuance of Temporary Permit 20184 is validated subject to the conditions specified in the permit.

CERTIFICATION

The undersigned, Administrative Assistant to the Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on January 6, 1988.

AYE: W. Don Maughan
Edwin H. Finster
Danny Walsh
Eliseo M. Samaniego

NO: None

ABSENT: Darlene E. Ruiz

ABSTAIN:None


Maureen Marche
Administrative Assistant to the Board