

STATE OF CALIFORNIA  
STATE WATER RIGHTS BOARD

In the Matter of Application 19999  
of Otis M. and Alice M. Leonard  
to Appropriate from East Fork Juniper  
Creek in Lassen County

ADOPTED APR 4 1963

Decision D 1116

DECISION APPROVING APPLICATION

Otis M. and Alice M. Leonard having filed Application 19999 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 for by Title 23, California Administrative Code, Section 737; an investigation having been made by the State Water Rights Board pursuant to said stipulations; the Board, having considered all available information and now being fully advised in the premises, finds as follows:

1. Application 19999 is for a permit to appropriate 510 acre-feet per annum by off-stream storage from November 1 of each year to March 31 of the succeeding year for irrigation purposes from East Fork Juniper Creek in Lassen County. Maximum rate of diversion to storage is to be 21.2 cubic feet per second. The point of diversion is to be located in Section 1, T37N, R8E, MDB&M.

2. East Fork Juniper Creek flows southwest from its point of origin approximately 3 miles to Silva Flat Reservoir.

From the reservoir it continues northwest approximately 10.5 miles to the applicants' point of diversion and from that point it flows west approximately 3 miles to its junction with South Fork Juniper Creek. Below the confluence of these two Forks, Juniper Creek flows west 3.5 miles to discharge into the Pit River.

3. Applicants propose to divert from the East Fork Juniper Creek by means of the existing Silva Flat Ditch presently used by the protestants Silva Flat Water Users, which will be enlarged from its present capacity of 10 cfs to 21 cfs. Water will be stored in an off-stream reservoir to be located on an unnamed tributary to the creek from where it will be rediverted for the irrigation of 215 acres.

4. Protestants Oral Babcock, H. W. Killebrew and Richard B. Keene, associated as the Silva Flat Water Users, hold decreed rights (Superior Court of Modoc County, No. 6395) to divert a total of 10 cfs from East Fork Juniper Creek from April 1 to May 15, inclusive, through the Silva Flat Ditch and to store 3600 acre-feet at the Silva Flat Reservoir from January 15 to March 15, inclusive, for the irrigation of 800 acres. These protestants have no objection to the approval of the application provided an agreement is reached with the applicants in regard to the use of their Silva Flat Ditch and diversion facilities.

5. Protestant L. H. Wood holds a right, confirmed by the above-mentioned decree, to divert 5.33 cfs from April 1

to September 30, inclusive, for domestic use, stockwatering, and the irrigation of 372.5 acres of land. His protest is directed only to the approval of the application for the month of March. The protestant has failed to show any right to divert during that month that would be interfered with by the approval of the application. Further, approximately one-half of the runoff from the Juniper Creek watershed enters the creek above this protestant's point of diversion and below the applicants' point of diversion. During the month of March, in most years, sufficient runoff occurs to supply both the applicants and protestant.

6. The permit to be issued should contain a term stating that the issuance of the permit should in no way be construed as conferring upon the permittees a right of access to the point of diversion or a right to use Silva Flat Ditch.

7. There is unappropriated water available to supply the applicants, and subject to suitable conditions, such water may be diverted and used in the manner proposed without causing substantial injury to any lawful user of water.

8. The intended use is beneficial.

From the foregoing findings, the Board concludes that Application 19999 should be approved and that a permit should be issued to the applicants subject to the limitations and conditions set forth in the following Order.

The records, documents and other data relied upon in determining the matter are: Application 19999 and all relevant information on file therewith, particularly the report of the

field investigation made on April 26, 1962, the files of Applications 1300, 1696, and 19379; United States Department of Interior, Geological Survey Water Supply Papers, Surface Water Supply of the United States, Part 11, "Pacific Slope Basins in California"; Bulletin No. 86, "Upper Pit River Investigation"; Bulletin No. 23, "Surface Water Flow"; Modoc Superior Court Decree No. 6395; and United States Geological Survey 7.5-minute series advance quadrangles, "Hayden NW, NE, SW and SE" and "Bieber NW, NE, SW and SE" and 15-minute series quadrangle "Hayden Hill".

#### ORDER

IT IS HEREBY ORDERED that Application 19999 be, and the same is, approved and that a permit be issued to the applicants subject to vested rights and to the following limitations and conditions:

1. The amount of water appropriated shall be limited to the amount which can be beneficially used and shall not exceed 510 acre-feet per annum by storage to be collected from about November 1 of each year to about April 1 of the succeeding year at a maximum rate of 21.2 cubic feet per second.
2. The maximum amount herein stated may be reduced in the license if investigation warrants.
3. Actual construction work shall begin on or before September 1, 1963, 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, 1965.

5. Complete application of the water to the proposed use shall be made on or before December 1, 1966.

6. Progress reports shall be filed promptly by permittees on forms which will be provided annually by the State Water Rights Board until license is issued.

7. All rights and privileges under this permit, including method of diversion, method of use, and quantity of water diverted are subject to the continuing authority of the State Water Rights 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.

8. Permittees shall allow representatives of the State Water Rights 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. This permit does not authorize collection of water to storage during the period from about April 1 to about November 1 of each season to offset evaporation and seepage losses or for any other purpose.

10. Permittees 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 Rights Board in order that

water entering the reservoir or collected in the reservoir during and after the current storage season may be released into the downstream channel to the extent necessary to satisfy downstream prior rights and/or to the extent that appropriation of said water is not authorized under this permit.

11. In accordance with the requirements of Water Code Section 1393, permittees shall clear the site of the proposed reservoir of all structures, trees, and other vegetation which would interfere with the use of the reservoir for water storage and recreational purposes.

12. A separate application for approval of plans and specifications for construction of the dam described in this approved water right application shall be filed with and approved by the Department of Water Resources prior to commencement of construction of the dam.

13. The issuance of this permit should in no way be construed as conferring upon the permittees a right of access to the point of diversion or a right to use Silva Flat Ditch.

Adopted as the decision and order of the State Water Rights Board at a meeting duly called and held at \_\_\_\_\_, California, on the \_\_\_\_\_ day of \_\_\_\_\_, 1963.

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Kent Silverthorne, Chairman

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Ralph J. McGill, Member

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W. A. Alexander, Member

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14. Rights under this permit are and shall be subject to existing rights determined by Pit River in Big Valley Adjudication, Superior Court, Modoc County (No. 6395), and such other rights as may presently exist on the stream insofar as said existing and adjudicated rights are maintained.

Adopted as the decision and order of the State Water  
Rights Board at a meeting duly called and held at  
California, on the                      day of                      , 1963.

Kent Silverthorne, Chairman

Ralph J. McGill, Member

W. A. Alexander, Member