

STATE OF CALIFORNIA  
STATE WATER RIGHTS BOARD

1182

In the Matter of Application 20910 )  
of Jack and Thomas David Swickard )  
to appropriate from Two Unnamed )  
Streams Tributary to Willow Creek )  
in Lassen County )

Decision D 1182

**ADOPTED MAY 19 1964**

DECISION APPROVING APPLICATION IN PART

Application 20910 to appropriate unappropriated water having been filed; protests having been received; a public hearing having been held before the State Water Rights Board in Susanville, California, on October 31, 1963, conducted by Kent Silverthorne, Chairman; applicants and protestants having appeared and presented evidence; the evidence received at said hearing having been duly considered; the Board finds as follows:

1. Application 20910 is for a permit to appropriate 5 cubic feet per second (cfs) by direct diversion from March 1 to November 1 of each year and 600 acre-feet per annum by storage from November 1 of each year to June 15 of the succeeding year for irrigation and stockwatering purposes from two unnamed streams in Lassen County.

2. The main source under the application is a stream which courses from Round Valley Reservoir in a northeasterly direction

approximately one mile, where it debouches onto the floor of Willow Creek Valley. The stream has no main channel in the valley and the water flows through numerous channels and ditches. The other stream located approximately one mile further to the north flows in approximately the same direction. Water from these streams enters Willow Creek near the middle of the valley and contributes to its flow only during periods of heavy runoff. Willow Creek flows approximately seven miles from Willow Creek Valley to a junction with Susan River near the community of Standish. Susan River continues southeastward through many sloughs and distributaries across Honey Lake Valley and, during times of high flow, into Honey Lake.

3. The applicants propose to enlarge a diversion ditch which now carries water from one of the unnamed streams at a point located below Round Valley Reservoir to lands to the north and to use the increased capacity of the ditch to deliver water to an off-stream reservoir of a capacity of 600 acre-feet to be constructed on the other unnamed stream. Water will also be diverted direct to the area to be irrigated.

4. Protestant Barron, who holds Licenses 6390, 6391, and 6910 to appropriate from Willow Creek and claims riparian rights, is located adjacent to the applicants. He has no objection to the diversion of "winter water" by the applicants. The major portion of the runoff reaching his property that will be retained by the applicants' project now discharges into Willow Creek near the lower end of his land and below his points of diversion.

5. Protestants Mapes, et al., are located on the flatlands north of Honey Lake near its eastern end. Their lands are irrigated from the various distributaries of the Susan River. They claim riparian rights and rights under a court decree in the case of J. J. Fleming, et al. v. J. R. Bennett, et al. (Action No. 4573, Superior Court of Lassen County). Protestant Department of Fish and Game operates waterfowl management areas at the terminus of the Susan River and holds rights to water from the Susan River confirmed by the same court decree.

6. During the irrigation season which commences about April 1 and continues through October, water does not occur in the sources surplus to the protestants' entitlements under rights confirmed by the above-mentioned decree. A permit for direct diversion for the remaining month of March designated by the application would be of little or no value to the applicants, and the applicants' request for direct diversion should be denied in its entirety. Prior to April 1 of each year, water surplus to the quantities necessary to satisfy the protestants' rights is available for diversion to storage as proposed by the applicants.

7. There is unappropriated water available to supply the applicants during the months of November through March, 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 uses are beneficial.

From the foregoing findings, the Board concludes that Application 20910 should be approved in part and that a permit should be issued to the applicants subject to the limitations and conditions set forth in the following Order.

ORDER

IT IS HEREBY ORDERED that Application 20910 be, and it is, approved in part, 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 600 acre-feet per annum by storage to be collected from about November 1 of each year to about March 31 of the succeeding year.

2. The maximum amount herein stated may be reduced in the license if investigation warrants it.

3. Actual construction work shall begin on or before September 1, 1964, 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, 1966.

5. Complete application of the water to the proposed use shall be made on or before December 1, 1967.

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. Permittee shall install and maintain an outlet pipe in his dam of such size and at such location as is specified by the State Department of Water Resources.

11. In accordance with the requirements of Water Code Section 1393, permittee 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. Construction of the storage dam shall not be commenced until the Department of Water Resources has approved plans and specifications.

13. Rights under this permit are and shall be subject to existing rights determined by J. J. Fleming, et al. v. J. R. Bennett, et al. (Action No. 4573, Superior Court, Lassen County) and such other rights as may presently exist on the streams insofar as said existing and adjudicated rights are maintained.

14. The issuance of this permit shall not be construed as placing a limitation on any riparian right or decreed right to the waters of the two unnamed streams held by the permittees.

Adopted as the decision and order of the State Water Rights Board at a meeting duly called and held at Sacramento, California, on the            day of            , 1964.

/s/ Kent Silverthorne  
Kent Silverthorne, Chairman

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

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

