

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 20794
of Albert R. and Audrey Davidson
to Appropriate from Unnamed Springs
and an Unnamed Stream Tributary to
Wolf Creek in Nevada County

Decision D 1197

ADOPTED OCT 29 1964

DECISION APPROVING APPLICATION IN PART

Application 20794 of Albert R. and Audrey Davidson having been filed; a protest having been received; a public hearing having been held before the State Water Rights Board in Sacramento, California, on January 8, 1964, conducted by Board Members Kent Silverthorne, Chairman, presiding, and William A. Alexander; applicants and protestant having appeared and presented evidence; the evidence received at the hearing having been duly considered, the Board finds as follows:

1. Application 20794 is for a permit to appropriate 0.16 cubic foot per second (cfs) by direct diversion, year-round, from unnamed springs and 15 acre-feet per annum (afa) by storage from October 1 of each year to May 1 of the succeeding year from an unnamed stream, for irrigation, domestic, stockwatering, and fire protection purposes.

2. The unnamed springs flow into the unnamed stream which enters Rattlesnake Creek. Rattlesnake Creek joins Wolf Creek which continues approximately six miles to join the Bear River.

The applicants propose to construct a dam and a reservoir with a capacity of 15 acre-feet on the unnamed stream which will reclaim approximately five acres of land by storing water that is now causing a swamp and will furnish water for fire protection, watering of stock, and fish culture.

The unnamed springs, which flow year-round, will be developed, and by use of a collection tank, water from this source will be used for domestic purposes at a home to be constructed and for the irrigation of a portion of the applicants' 13-acre tract of land.

3. Protestant South Sutter Water District and Camp Far West Irrigation District operate Camp Far West Reservoir on the Bear River, which has been enlarged recently. They hold certain permits and licenses that cover this project.

4. An operation study for the enlarged Camp Far West Reservoir which takes into consideration the effect of the proposed Rollins Reservoir to be constructed upstream by Nevada Irrigation District shows that the reservoir would have spilled in 18 of the 35 years of study. This is indicative of the presence of water surplus to the requirements of the Districts.

5. Protestant has no objection to diversions by the applicants commencing about July 1 and continuing through the summer months. From July 1 to about November 1 Rattlesnake Creek

is usually dry, and there is little, if any, hydraulic continuity between the unnamed springs and stream and Bear River. Direct diversion during these months as requested by the applicants should be approved.

6. During the remainder of the year unappropriated water is available for storage and irrigation use only in years during which Camp Far West Reservoir spills. Domestic use by applicants should not exceed 1,000 gallons per day. In view of the insignificant effect that a diversion of this magnitude would have on downstream users, together with the fact that, according to the operation study, Camp Far West Reservoir will, on the average, spill in excess of one-half of the years of operation, a year-round diversion of 1,000 gallons per day should be allowed.

7. The intended uses are beneficial.

8. In order to protect the prior rights of the protestant during years of below average precipitation, the permit should contain a condition prohibiting direct diversion in excess of 1,000 gallons per day and requiring the permittees to release water impounded by their reservoir if Camp Far West Reservoir fails to spill by April 1.

9. Applicants' land is contiguous to the source and they claim a riparian right to the use of water therefrom, but said claimed right has not been established by court decree. The permit should provide that upon a judicial determination that the land or a portion thereof is entitled to the use of water by riparian right, the right so determined and the right acquired

under the permit to direct diversion of water shall not result in a combined right to the use of water in excess of that which could be claimed under the larger of the two rights.

From the foregoing findings, the Board concludes that Application 20794 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 20794 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 water appropriated by storage shall be limited to the quantity which can be beneficially used and shall not exceed 15 acre-feet per annum to be collected from about October 1 of each year to about May 1 of the succeeding year, for stockwatering, fish culture, and fire protection purposes.

2. The water appropriated by direct diversion shall be limited to the quantity which can be beneficially used and shall not exceed (a) 1,000 gallons per day from about November 1 to about March 1 for domestic use, and (b) 0.16 cubic foot per second from about March 1 to about October 31 of each year for irrigation and domestic purposes; provided, however, that should permittees be required to release stored water in accordance with the provisions of Paragraph 3, diversion shall be restricted to 1,000 gallons per day until July 1.

The equivalent of such continuous flow allowance for irrigation purposes for any 30-day period may be diverted in a shorter time if there be no interference with vested rights.

3. This permit is specifically subject to Permit 11297 (Application 14804) of South Sutter Water District covering diversion of water from Bear River at Camp Far West Dam. Should Camp Far West Reservoir not spill by April 1 of any year, permittees shall, on demand of the District, release from their reservoir into the natural stream channel the water impounded the same season, except for dead storage approximating 3.75 acre-feet; provided, however, that any water released from Camp Far West Reservoir prior to April 1 of any year except for uses authorized by Permit 11297, or to maintain fish or for downstream prior rights, shall be considered surplus regardless of the level of Camp Far West Reservoir at the time of said release, and permittees shall be entitled to retain an equivalent amount of water for storage in accordance with the priority of permits subject to the same condition, even though Camp Far West Reservoir does not fill to capacity.

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

5. Actual construction work shall begin on or before June 1, 1965, and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked.

6. Construction work shall be completed on or before December 1, 1967.

7. Complete application of the water to the proposed use shall be made on or before December 1, 1968.

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

9. 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.

10. 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.

11. This permit does not authorize collection of water to storage during the period from about May 1 to about October 1 of each season to offset evaporation and seepage losses or for any other purpose.

12. Water entering the reservoir or collected in the reservoir during and after the current storage season shall be released into the downstream channel to the extent necessary to satisfy downstream prior rights and/or to the extent that appropriation of water is not authorized under this permit. Permittees shall install and maintain an outlet pipe of adequate capacity in

their dam as near as practicable to the natural stream channel, or provide other means satisfactory to the State Water Rights Board to comply with this paragraph.

13. Upon a judicial determination that the place of use under this permit or a portion thereof is entitled to the use of water by riparian right, the right so determined and the right to direct diversion of water acquired under this permit shall not result in a combined right to the use of water in excess of that which could be claimed under the larger of the two rights.

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

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