

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application)
23108 of Virginia B. Ballinger)
to Appropriate from an Unnamed)
Stream in Sonoma County.)

Decision 1357

DECISION APPROVING APPLICATION

Virginia B. Ballinger having filed Application 23108 for a permit to appropriate unappropriated water; a protest having been received; the applicant and protestant 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 Resources Control Board pursuant to said stipulation; the Board, having considered all available information, finds as follows:

Substance of the Application

1. Application 23108 is for a permit to appropriate 12 acre-feet per annum by storage from November 1 of each year to April 30 of the succeeding year for irrigation and recreational purposes from an unnamed stream in Sonoma County. The point of diversion

is to be located within the SE $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 7, T6N, R6W, MDB&M.

Applicant's Project

2. The applicant has constructed a reservoir with a capacity of approximately 12 acre-feet on an intermittent unnamed stream that heads approximately 1,000 feet above his land. The water is used to irrigate approximately 15 acres of vineyard.

Availability of Water at Project Site

3. The watershed of the unnamed stream above the applicant's reservoir is approximately 100 acres. Based on the mean annual rainfall for the watershed area, there is sufficient water during most years to fill the reservoir.

Basis of Protest

4. Protestant Albert D. Elledge pumps approximately 600 gallons of water per day from a well adjacent to the unnamed stream just below the applicant. He claims a riparian right to water from the unnamed stream for use at a home and garden. His protest is based on possible interference with the supply from his well by the applicant's storage upstream and he requests the

Board to reserve jurisdiction over any permit issued pursuant to Application 23108.

Disposition of Protest

The protestant's well is 380 feet deep most of which penetrates the tighter material below the alluvium which forms the streambed. The well is able to produce about 600 gallons per day from this tighter material. The water supplying the well is percolating water not within the jurisdiction of the Board (Water Code Section 1200) and the protestant will not be affected by any impoundment of the surface or subsurface flow of the unnamed stream.

Reservation of Jurisdiction

6. The circumstances do not warrant reservation of jurisdiction pursuant to Water Code Section 1394.

Availability of Unappropriated Water

7. Unappropriated water is available to supply the applicant, 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.

Conclusion

From the foregoing findings, the Board concludes that Application 23108 should be approved and that a permit should be issued to the applicant subject to the limitations and conditions set forth in the order following.

The records, documents, and other data relied upon in determining the matter are: Application 23108 and all relevant information on file therewith, particularly the report of field investigation made October 14, 1969, and climatological data for the area.

ORDER

IT IS HEREBY ORDERED that Application 23108 be, and it is, approved, and that a permit be issued to the applicant subject to vested rights and to the following limitations and conditions:

1. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 12 acre-feet per annum by storage to be collected from about November 1 of each year to about April 30 of the succeeding year.

This permit does not authorize collection of water to storage outside the specified season to offset evaporation and seepage losses or for any other purpose.

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

3. Complete application of the water to the proposed use shall be made on or before December 1, 1973.

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

5. 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 Resources Control 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.

6. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant

to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

7. Permittee shall allow representatives of the State Water Resources Control 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.

8. Permittee shall, when required by the State Water Resources Control Board, install and maintain an outlet pipe of adequate capacity in his dam as near as practicable to the bottom of the natural stream channel, or provide other means satisfactory to the 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.

Adopted as the decision and order of the State
Water Resources Control Board at a meeting duly called
and held at Santa Monica, California.

Dated: April 16, 1970

KERRY W. MULLIGAN **ABSENT**
Kerry W. Mulligan, Chairman

E. F. DIBBLE
E. F. Dibble, Vice Chairman

NORMAN B. HUME
Norman B. Hume, Member

RONALD B. ROBIE
Ronald B. Robie, Member

W. W. ADAMS
W. W. Adams, Member