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STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 23814 of Edward and Rubie Root, Application 23969 of Raymond E. and Julia E. Otis, Application 23993 of Charles and Ruth Franzoia, Application 24063 of Bessie E. Randall and Application 24080 of Mike and Brigitte Raleigh to appropriate from Unnamed Streams in Del Norte County.

Decision 1440

DECISION APPROVING APPLICATIONS 23969, 23993 AND 24080 AND APPROVING APPLICATIONS 23814 AND 24063 IN PART

BY THE BOARD:

Edward and Rubie Root having filed Application 23814, Raymond E. and Julia E. Otis having filed Application 23969, Charles and Ruth Franzoia having filed Application 23993, Bessie E. Randall having filed Application 24063 and Mike and Brigitte Raleigh having filed Application 24080 for permits 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 Resources Control Board pursuant to said stipulation; the Board, having considered all available information, finds as follows:

Substance of the Applications

1. Applications 23814, 23969, 24063 and 24080 are for permits to appropriate from the same unnamed stream tributary to

Lopez Creek in Del Norte County. Application 23993 is for a permit to appropriate from another smaller unnamed stream tributary to Lopez Creek in the immediate vicinity. All points of diversion are within the SE $\frac{1}{4}$ of SE $\frac{1}{4}$, Section 8, T18N, R1W, HB&M. All of the applications are to appropriate water year-round by direct diversion. Application 23814, in addition to direct diversion, requests storage from February 1 to July 30.

The quantities of water requested by the applicants are as follows: Application 23814 is for 3,000 gallons per day (gpd) and 0.2 acre-foot per annum; Application 23969 is for 600 gpd; Application 23993 is for 500 gpd; Application 24063 is for 800 gpd and Application 24080 is for 600 gpd.

Sources of Water

2. The larger unnamed stream flows into Lopez Creek approximately one-quarter mile below the applicants' points of diversion during periods of high flow. At other times the stream sinks into coarse gravels a short distance below the points of diversion. The smaller unnamed stream, the source for Application 23993, has no defined channel to Lopez Creek; however, some of its flow may reach the creek farther downstream. Lopez Creek continues from its junction with the larger unnamed stream approximately one-half mile to the ocean. Its mouth is approximately one mile north of the Smith River.

Applicants' Projects

3. Except for the construction of a small reservoir under Application 23814, applicants' projects have been constructed and water is being used in the manner contemplated by the applications. The applicants' projects provide water at homes, irrigate lawns, gardens and small orchards, and furnish water for a few livestock and fowl. All diversions are by gravity through plastic pipe. Water diverted under Applications 23814, 23969 and 24063 first goes into regulatory storage tanks before being placed to use.

The fact that the applicants diverting from the larger unnamed stream divert at or near the same point in the unnamed stream channel, has led to controversy and competition for the available flow during dry periods.

The small reservoir described in Application 23814 will be constructed on the applicants' property below the other applicants who divert from the larger unnamed stream and immediately upstream from the coarse gravels which usually absorb any surplus flow in the stream. Its construction should not interfere with the supply of water available to the other applicants.

Protests

4. Protests to Application 23814 were filed by the other applicants who later filed their own applications. The places of use covered by all of the applications were originally a single

tract. The applicants claim the original tract had riparian rights which were preserved in the later conveyances. The parties were notified that formal protests to the applications were unnecessary and all of the applications would be included in the same investigation (letter of July 28, 1972).

Water Supply and Use

5. There are no flow records for the two unnamed streams. Flow of the larger unnamed stream at the applicants' points of diversion was estimated at 125 gallons per minute (gpm) on September 28, 1971, and at 30 to 40 gpm on August 29, 1972. Considering the stream's location in the north coastal area and its watershed, it is unlikely that its flow would ever be less than 25 gpm. This minimum amount would be adequate for all normal uses of the four applicants if properly managed. The problem of shortage in the past has arisen due to mismanagement and inefficient means of diversion rather than lack of water in the source. Some of the applicant's storage tanks leak profusely. Also, there are no float valves on the inlet pipes and excess water overflows the tanks and goes to waste.

6. Unappropriated water is 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.

7. The intended use is beneficial.

8. The proposed purposes of use all come under the category of domestic use (Title 23, California Administrative Code, Section 661). Permits issued pursuant to the subject applications should be for domestic purposes only.

9. The needs of each of the applicants should not require a diversion of more than 600 gpd. Permits issued pursuant to Applications 23814 and 24063 should be limited to that quantity of water.

Environmental Considerations

10. All environmental reviews required in compliance with the California Environmental Quality Act of 1970 have been completed.

From the foregoing findings, the Board concludes that Applications 23969, 23993 and 24080 should be approved, and that Applications 23814 and 24063 be approved in part, and that permits should be issued to the applicants 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: Applications 23814, 23969, 23993, 24063 and 24080 and all relevant information on file therewith, particularly the reports of field investigations made September 28, 1971 and August 29, 1972.

ORDER

IT IS HEREBY ORDERED that Applications 23969, 23993 and 24080 be approved and that Applications 23814 and 24063 be approved

in part and that permits be issued to the applicants subject to vested rights and to the following limitations and conditions:

1. (a) The water appropriated pursuant to Application 23993 shall be limited to the quantity which can be beneficially used and shall not exceed 500 gallons per day by direct diversion, year-round.

(b) The water appropriated pursuant to Applications 23969, 24063 and 24080 shall be limited to the quantity which can be beneficially used and shall not exceed 600 gallons per day by direct diversion, year-round.

(c) The water appropriated pursuant to Application 23814 shall be limited to the quantity which can be beneficially used and shall not exceed (a) 600 gallons per day by direct diversion, year-round, and (b) 0.2 acre-foot annually by storage to be collected from February 1 to July 30 of each year. The total amount of water to be taken from the source shall not exceed 0.7 acre-foot per water year, October 1 to September 30.

2. The amount authorized for appropriation may be reduced in the license if investigation warrants.

3. The permit issued pursuant to Application 23814 shall contain the following additional terms:

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

(b) Actual construction work on the storage reservoir shall begin on or before nine months from date of permit and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked.

(c) Said construction work shall be completed on or before December 1, 1977.

4. Complete application of the water to the proposed use shall be made on or before December 1, 1978.

5. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued.

6. All rights and privileges under this permit and under any license issued pursuant thereto, 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.

This continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to minimizing waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement such programs as (1) reusing or reclaiming the water allocated; (2) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (3) suppressing

evaporation losses from water surfaces; (4) controlling phreato-phytic growth; and (5) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

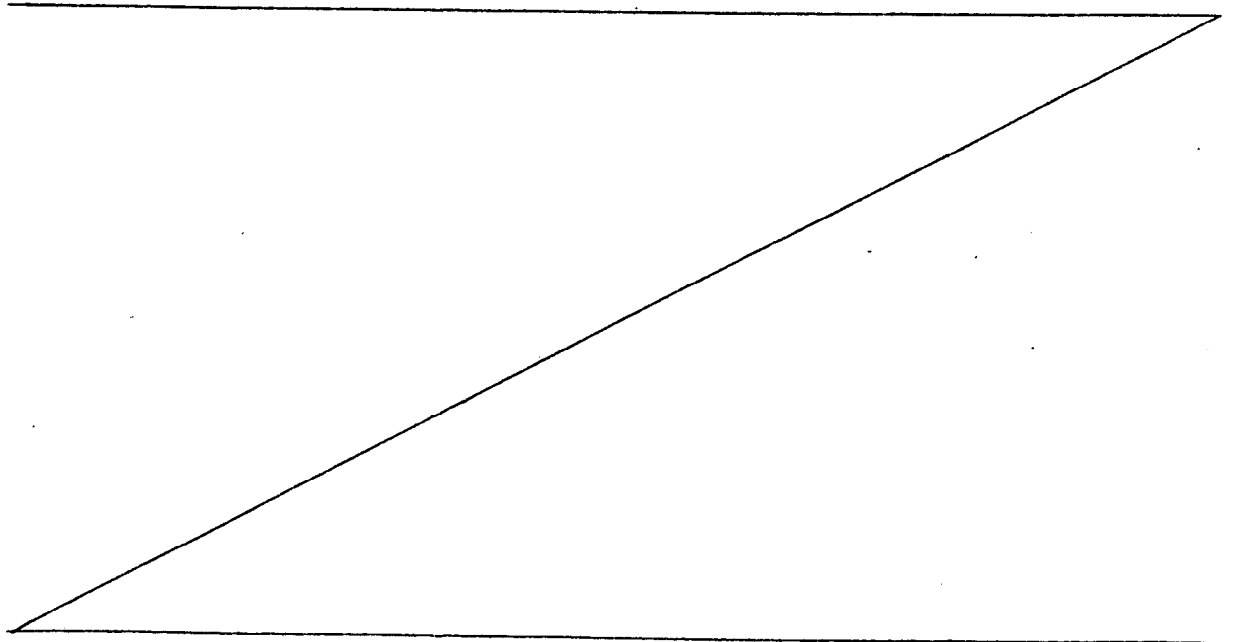
7. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality 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.

8. 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.

9. The permit issued pursuant to Application 23814 shall contain the following additional term:

In order to prevent degradation of the quality of water during and after construction of the project, prior to commencement of construction permittee shall file a report pursuant to Water Code Section 13260 and shall comply with any waste discharge requirements imposed by the California Regional Water Quality Control Board, North Coast Region, or by the State Water Resources Control Board.

10. Permittee shall not exercise any other existing right to the use of water named herein so long as this permit or any license issued pursuant thereto remains in effect.



11. This permit shall not be construed as conferring upon the permittee right of access to the point of diversion.

Dated: October 17, 1974

ABSENT

W. W. Adams, Chairman

RONALD B. ROBIE

Ronald B. Robie, Vice Chairman

ROY E. DODSON

Roy E. Dodson, Member

MRS. CARL H. (JEAN) AUER

Mrs. Carl H. (Jean) Auer, Member

W. DON MAUGHAN

W. Don Maughan, Member