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STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Applications 23838 and )  
23690 and Permit 15140 (Application 22102) )  
of South Sutter Water District to Appro- )  
priate from Yankee Slough, East Side Canal, ) Decision 1456  
King Slough, Pleasant Grove Creek, and )  
Curry Creek in Placer and Sutter Counties. )

DECISION APPROVING APPLICATIONS 23690 AND 23838  
AND AMENDING PERMIT 15140 (APPLICATION 22102)

BY THE BOARD:

South Sutter Water District (District) having filed Applica-  
tions 23690 and 23838 for permits to appropriate unappropriated  
water and petitions to change the point of diversion and place  
of use described in Permit 15140 (Application 22102); protests  
having been received to Application 23838, only, and to the pro-  
posed changes in Permit 15140; the applicant and protestants  
having stipulated to proceedings in lieu of hearing as provided  
for by Title 23, California Administrative Code, Section 737;  
investigations having been made by the State Water Resources  
Control Board pursuant to said stipulations; the Board, having  
considered all available information, finds as follows:

1456

Substance of the Application

1(a). Application 23838 is for a permit to appropriate  
ten cubic feet per second (cfs) by direct diversion from April 1  
to June 30 and from September 1 to October 31 of each year for  
irrigation purposes from Yankee Slough, tributary to Bear River,  
in Placer and Sutter Counties; total annual appropriation will  
not exceed 2,000 acre-feet (af).

The water will be diverted at variable points between Section 23, T13N, R5E, and Section 21, T13N, R4E, MDB&M.

1(b). Application 23690 is for a permit to appropriate 25 cfs by direct diversion from April 1 to June 30 and from September 1 to October 31 of each year for irrigation purposes from King Slough, East Side Canal, Pleasant Grove Creek and Curry Creek in Placer and Sutter Counties at variable points within certain reaches of the named sources more particularly described in Application 23690. Total annual appropriation will not exceed 5,000 af.

As the protests to Application 23690 have been withdrawn it should be approved subject to the same terms and conditions imposed upon Application 23838 if that application is approved.

#### Applicant's Project

2. The District proposes to release water from its Bear River project into Yankee Slough for rediversion and beneficial use by water users within its boundaries. Application 23838 was filed to appropriate any natural flow in the channel or flow from sources other than the Bear River. The District claims to have a right to recapture, within its boundaries, any drainage water from the District's Bear River project under the District's rules and regulations covering water use. The water covered by Application 23838 will be diverted from Yankee Slough by means of the customers' own works and no new construction is contemplated.

## Protestants

3. Application 23838 was protested by the Delta Water Users Association (DWUA) and A. L. Thornton. The United States Bureau of Reclamation (USBR) did not protest because the District eliminated the months of July and August from its diversion season as requested by USBR. The DWUA represents owners of lands which are supplied with water from the Sacramento and San Joaquin River system. It claims that any diversion of water from that system will reduce quantity and quality of the water available to its members and will infringe upon their riparian, prescriptive and appropriative rights. A. L. Thornton irrigates 320 acres with Bear River water purchased from the District, natural flow of Yankee Slough, runoff from his own irrigation, and water from his own wells which he pumps into Yankee Slough. He claims riparian rights to water from Yankee Slough and the right to recapture his own return water. He is apprehensive that the District's project may interfere with his rights and deplete his supply of water from Yankee Slough.

## Flows of Yankee Slough

4. There is no continuous record of the flows in Yankee Slough and there are only a few spot measurements which were made by members of the Board's staff. The District planned to measure water entering the District at its easterly boundary (letter to Board from District dated May 21, 1973). However, on October 10, 1973, the time of the field investigation, the

proposed measurement program had not commenced. The source of water in Yankee Slough during a substantial part of the diversion season is runoff from upstream use and varies considerably in quantity.

#### Availability of Unappropriated Water

5. As mentioned above, the District, in order to satisfy the Bureau's objection to Application 23838, authorized the deletion of July and August from its proposed diversion season. The previous decisions of the Board have found that there is no water available in the Bear River and the Sacramento River in July and August. The deletion of these two months from the District's diversion season, along with a provision that any permit issued pursuant to Application 23838 shall contain a term reserving jurisdiction in the Board for the purpose of conforming the season of diversion to later findings of the Board on prior applications involving water in the Sacramento River Basin and Delta, should adequately protect the interests represented by the DWUA.

6. Approval of Application 23838 should have no adverse effect on the use of water under the rights claimed by protestant Thornton as the diversion points of the District's Yankee Slough customers are all downstream from the Thornton properties.

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.

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

Change in Point of Diversion and Place of Use Under Permit 15140  
(Application 22102)

10. Permit 15140 allows appropriation of 50 cfs from September 1 to June 15 for irrigation of 4,000 acres net. The point of diversion allowed by the permit is on East Side Canal just downstream from the confluence with Auburn Ravine and is located in Section 34, T12N, R4E, MDB&M.

The permittee proposes to retain the present point of diversion and designate it as "Point A". That point will represent the downstream limit of diversion by the permittee. The permittee also proposes to add, as upstream limits of diversion: "Point B", on Coon Creek in Section 33, T13N, "Point C" on Markham Ravine in Section 16, T12N; and "Point D" on Auburn Ravine in Section 28, T12N, all R5E, MDB&M. It is proposed to divert at various points between the upstream and downstream limits. Coon Creek, Markham Ravine and Auburn Ravine are all tributary to East Side Canal.

The present place of use under Permit 15140 is described as a net of 4,000 acres within a gross area of 6,460 acres within T11N and T12N, R4E; and T12N, R3E, MDB&M. It is

proposed to change that description to a net of 4,000 acres within a gross area of 43,675 acres within T11N, R4E; T11N, R5E; T12N, R3E; T12N, R4E; T12N, R5E; T13N, R4E; and T13N, R5E, MDB&M.

The purpose of the proposed change is to conform the place of use to the area actually irrigated and provide greater flexibility in use of water within the District.

11. Cecil and Edna Cox protested the proposed changes. They hold License 5686 (Application 15716) to divert 1.12 cfs from Coon Creek from April 1 to October 31 for irrigation of 90 acres. They are concerned that if the District is granted permission to divert at "Point B", which is upstream from them, it will be in a position to interfere with their use under License 5686. As they have prior rights under their license, the District must respect them without regard to the location of the District's point of diversion. From a practical standpoint, it should be noted that the District uses Coon Creek as a conduit to serve customers located downstream from the protestants' lands. Therefore, it appears unlikely that the District will interfere with the supply of water now available to the protestants.

12. Any order approving the District's petition should contain a term placing the District on notice that its diversion pursuant to Permit 15140 shall be limited to times when it will not interfere with the prior rights of the protestants. Also, the order should contain a term requiring that the District furnish the Board with information regarding use of water under Permit 15140 and the order should require the inclusion in Permit 15140 of standard terms which are now required in all permits.

13. All environmental reviews required by the proposed changes in point of diversion and place of use in compliance with the California Environmental Quality Act of 1970 have been completed.

From the foregoing findings the Board concludes that Applications 23838 and 23690 should be approved and that permits should be issued to the District subject to the limitations and conditions set forth in the order following; and the District's petitions to change the point of diversion and place of use covered by Permit 15140 should be granted.

#### ORDER

IT IS HEREBY ORDERED that Applications 23838 and 23690 be approved and that permits be issued to the applicant subject to vested rights and to the following limitations and conditions:

1(a). The water appropriated pursuant to Application 23838 shall be limited to the quantity which can be beneficially used and shall not exceed ten cubic feet per second (cfs) by direct diversion from April 1 to June 30 and from September 1 to October 31 of each year. The maximum amount diverted under this permit shall not exceed 2,000 acre-feet (af) per year.

(b). The water appropriated pursuant to Application 23690 shall be limited to the quantity which can be beneficially used and shall not exceed 25 cfs by direct diversion from April 1 to June 30 and from September 1 to October 31 of each year. The maximum amount diverted under this permit shall not exceed 5,000 af.

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

3. The State Water Resources Control Board reserves jurisdiction over this permit for the purpose of conforming the season of diversion to later findings of the Board on prior applications involving water in the Sacramento River Basin and Delta. Action by the Board will be taken only after notice to interested parties and opportunity for hearing.

4. No water shall be used under this permit until the permittee has supplied the Board with the name of each customer using said water, the location of each point of diversion, and the capacity of each customer's diversion works. Permittee shall promptly notify the Board of any changes in the location of points of diversion or diversion works capacities of customers using water under this permit.

5. Construction work shall be completed on or before December 1, 1979.

6. Complete application of the water to the proposed use shall be made on or before December 1, 1980.

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



8. Pursuant to California Water Code Section 100, 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 diversion so as to eliminate agricultural tailwater or to reduce return flow; (3) suppressing evaporation losses from water surfaces; (4) controlling phreatophytic 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.

9. 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.

10. 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.

11. To the extent that water available for use under this permit is foreign water, this permit shall not be construed as giving any assurance that such supply will continue.

IT IS FURTHER ORDERED that Permit 15140 (Application 22102) be amended to include the following terms.

1. The upstream limits of diversion under this permit are "Point B" on Coon Creek in Section 33, T13N, "Point C" on Markham Ravine in Section 16, T12N, and "Point D" on Auburn Ravine in Section 28, T12N, all R5E, MDB&M. The downstream limit of diversion under this permit is on East Side Canal in Section 34, T12N, R4E, MDB&M. Diversions are authorized at any point between the upstream and downstream limits.

2. The place of use is a net 4,000 acres within a gross area of 43,675 acres within T11N, R4E; T11N, R5E; T12N, R3E; T12N, R4E; T12N, R5E; T13N, R4E; and T13N, R5E, all MDB&M.

3. Diversion under this permit by the District's customers between "Point B" and the diversion point of protestants Cox is limited to those times when such diversion will not interfere with the rights of protestants Cox under License 5686 (Application 15716).

4. No water shall be used under this permit until the permittee has supplied the Board with the name of each customer using said water, the location of each point of diversion, and the capacity of each customer's diversion works. Permittee shall promptly notify the Board of any changes in the location of points of diversion or diversion works capacities of customers using water under this permit.

5. Pursuant to California Water Code Section 100, 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 phreatophytic 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.

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.

Dated: February 19, 1976

W. W. ADAMS  
W. W. Adams, Chairman

W. DON MAUGHAN,  
W. Don Maughan, Vice Chairman

ROY E. DODSON  
Roy E. Dodson, Member

JEAN AUER  
Jean Auer, Member