

STATE OF CALIFORNIA  
STATE WATER RIGHTS BOARD

In the Matter of Application 18905 )  
of Aubert and Anna M. Wildberger )  
to Appropriate from an Unnamed Stream )  
Tributary to Coon Creek in Placer )  
County )

Decision D 1043

**ADOPTED NOV 13'61**

DECISION APPROVING APPLICATION

Aubert and Anna M. Wildberger having filed Application 18905 for a permit to appropriate unappropriated water; protest having been received; the applicants 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 Rights Board pursuant to said stipulation; the Board, having considered all available information and now being fully advised in the premises, finds as follows:

1. Application 18905 is for a permit to appropriate 75 acre-feet of water per annum by storage from November 1 of each year to April 15 of the succeeding year for irrigation purposes from an unnamed stream tributary to Coon Creek in Placer County. The point of diversion is to be located within the NW $\frac{1}{4}$  of NW $\frac{1}{4}$  of Section 21, T13N, R7E, MDB&M.

2. The applicants' proposed point of diversion on the unnamed stream is located approximately one-quarter mile upstream

from the stream's confluence with Coon Creek. The flow of the unnamed stream on November 15, 1960, at that point was approximately 0.1 cubic foot per second.

3. The watershed above the applicants' proposed dam is approximately 75 acres. The estimated average seasonal runoff for this area is approximately 1.28 acre-feet per acre, 1.02 acre-feet per acre occurring during the period from November 1 to March 31 for an average available supply of 76 acre-feet to satisfy the application.

4. The Nevada Irrigation District holds Permit 11313 authorizing an appropriation of 20,500 acre-feet per annum between November 1 and April 1 from Coon Creek at a point below the confluence of Coon Creek with the unnamed stream. There is an average seasonal runoff of approximately 26,200 acre-feet at the District's reservoir site during the proposed storage season to supply this project.

5. Protestant Placer County Water Agency has filed Application 16729, having an earlier priority date than Application 18905, to appropriate the entire estimated average seasonal runoff of Coon Creek by means of a reservoir to be constructed at approximately the same location as that proposed by Nevada Irrigation District. This reservoir is one of several proposed to be constructed by the protestant for conservation of water in Placer County.

6. The basis of the Placer County Water Agency's protest is that the granting of Application 18905 will deprive it of water applied for in its application and that the applicants' proposed dam would be constructed within the boundaries of the agency's proposed reservoir, requiring later purchase or condemnation of the same upon construction of its project.

7. Because of the problems inherent in projects of the size of those proposed by the protestant, it may be several years before the protestant will construct a reservoir on Coon Creek. In the interim water will be available to satisfy the applicants. The permit issued to the applicants will as a matter of law be subordinate to any permit issued to the protestant pursuant to Application 16729. The fact that the applicants' works may be eventually purchased or condemned by the protestant is not a proper ground for denial of the application.

8. There is unappropriated water 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.

9. The intended use is beneficial.

From the foregoing findings, the Board concludes that Application 18905 should be approved and that a permit should be issued to the applicants subject to the limitations and conditions set forth in the following Order.

The records, documents, and other data relied upon in determining the matter are: Application 18905 and all relevant

information on file therewith, particularly the report of the field investigation made November 15, 1960; files of Permit 11313 (Application 14705) and Applications 16729, 17299, and 18905; Bulletin No. 10 of the State Water Resources Board, "Placer County Investigation," dated June 1955; United States Geological Survey Auburn, Knights Landing, and Lincoln quadrangles.

IT IS HEREBY ORDERED that Application 18905 be, and the same is, approved, 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 to be appropriated shall be limited to the amount which can be beneficially used and shall not exceed 75 acre-feet per annum by storage to be collected from about November 1 of each year to about April 15 of the succeeding year.

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

3. Actual construction work shall begin on or before June 1, 1962, and 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, 1964.

5. Complete application of the water to the proposed use shall be made on or before December 1, 1965.

6. 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.

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. The 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.

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                      , 1961.

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Kent Silverthorne, Chairman

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Ralph J. McGill, Member

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W. A. Alexander, Member