

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 18952)
of Leonard C. and Helen R. Coit)
to Appropriate from Fern Gulch)
in Santa Clara County)

Decision D 1089

ADOPTED JUN 26 '62



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DECISION APPROVING APPLICATION

Leonard C. and Helen R. Coit having filed Application 18952 for a permit 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 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 18952 is for a permit to appropriate 5,000 gallons per day by direct diversion to be diverted year-round and 50,000 gallons per annum by storage to be collected from about December 1 of each year to about March 1 of the succeeding year for domestic, irrigation, and fire protection purposes from Fern Gulch in Santa Clara County. The point of diversion is to be located within the SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 5, T9S, R1W, MDB&M.

2. Fern Gulch empties into the southern end of Lexington Reservoir, located on Los Gatos Creek, at a point approximately 0.75 miles from its point of origin. The applicants' point of diversion is located approximately 1,000 feet above the high water line of the reservoir.

3. In normal years Fern Gulch flows year-round.

4. Protestants Lester, Cilker, and Lester hold License 520 confirming a right to divert 3.5 cfs from May 1 to December 1 (not to exceed 510 acre-feet per annum) for irrigation use, diverting from a well on the upstream face of Vasona Dam which is located approximately 3.5 miles below Lexington Dam.

5. During the critical irrigation season Lexington Reservoir is drawn down or completely dry with the result that any flows from Fern Gulch are consumed by vegetation in the upper end of the reservoir and do not contribute to the supply available to the protestants.

6. 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.

7. The intended use is beneficial.

From the foregoing findings, the Board concludes that Application 18952 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 18952 and all relevant information on file therewith, particularly the report of the field investigation made November 8, 1960, and November 2, 1961; the files of Permit 11659 (Application 16917); License 520 (Application 1733); License 521 (Application 2153); License 5729 (Application 11751), and canceled Application 18693; and United States Geological Survey "Los Gatos" quadrangle, 7 $\frac{1}{2}$ -minute series, dated 1953.

IT IS HEREBY ORDERED that Application 18952 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 5,000 gallons per day by direct diversion to be diverted year-round and 50,000 gallons per annum by storage to be collected from about December 1 of each year to about March 1 of the succeeding year. The equivalent of such continuous flow allowance for any thirty-day period may be diverted in a shorter time if there be no interference with vested rights.

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

3. Actual construction work shall begin on or before December 1, 1962, and thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked.

4. Said 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. 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.

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 , 1962.

Kent Silverthorne, Chairman

Ralph J. McGill, Member

W. A. Alexander, Member