

STATE OF CALIFORNIA  
STATE WATER RIGHTS BOARD

ADOPTED SEP 26 '62

In the Matter of Application 18987 )  
of R. Harry and Dortha E. McKillip )  
to Appropriate from Las Tablas Creek )  
in San Luis Obispo County )

Decision D 1097

DECISION APPROVING APPLICATION

R. Harry and Dortha E. McKillip having filed Application 18987 for a permit to appropriate unappropriated water; a 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 18987 is for a permit to appropriate 190 acre-feet per annum by storage from November 1 of each year to February 1 of the succeeding year from Las Tablas Creek in San Luis Obispo County for irrigation of 160 acres of pasture. The point of diversion is to be located within the NW $\frac{1}{4}$  of NW $\frac{1}{4}$  of Section 7, T26S, R10E, MDB&M.

2. The applicants' point of diversion, where they have constructed a dam and reservoir, is located on Las Tablas Creek approximately 5 miles upstream from the point where the creek joins the Nacimiento River.

1097

3. On May 24, 1961, the applicants' reservoir was practically completed and was spilling at an estimated rate of 2.5 cubic feet per second.

4. Protestant Gage H. Irving owns property along Las Tablas Creek below the applicants and claims riparian rights to its flows for watering approximately 200 head of stock. He acknowledges that unappropriated water is available in normal years to satisfy the applicants, his protest being concerned with the safety of the applicants' dam and the applicants' facilities for release or bypass of water to which he claims entitlement by virtue of riparian rights.

5. 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.

6. The usual permit term requiring the permittees to install an outlet pipe or other means of releasing water from the reservoir satisfactory to the Board plus the limitation as to season of collection to storage will provide adequate protection to protestant's rights.

7. Applicants have filed an application with the Department of Water Resources for the approval of plans and specifications for the dam and have received approval for the use of the reservoir during a period of observation of the dam under service.

8. The intended use is beneficial.

From the foregoing findings, the Board concludes that Application 18987 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 18987 and all relevant information on file therewith, particularly the report of the field investigations made on May 13, 1960, and on March 24, 1961; USGS Water Supply Papers, "Surface Water Supplies of the United States, Part 11, Pacific Slope Basins in California"; United States Geological Survey Adelaida, Cypress Mountain, Lime Mountain, and York Mountain quadrangles, 7 $\frac{1}{2}$ -minute series, all dated 1947.

IT IS HEREBY ORDERED that Application 18987 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 appropriated shall be limited to the amount which can be beneficially used and shall not exceed 190 acre-feet per annum by storage to be collected from about November 1 of each year to about February 1 of the succeeding year.

2. The maximum amount 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, 1964.

4. 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.

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 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.

6. 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.

7. This permit does not authorize collection of water to storage during the period from about February 1 to about November 1 of each season to offset evaporation and seepage losses or for any other purpose.

8. Permittees shall install and maintain an outlet pipe of adequate capacity in their dam as near as practicable to the bottom of the natural stream channel or provide other means satisfactory to the State Water Rights 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 and/or to the extent that appropriation of said water is not authorized under this permit.

9. In accordance with the requirements of Water Code Section 1393, permittees 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 \_\_\_\_\_, 1962.

\_\_\_\_\_  
Kent Silverthorne, Chairman

\_\_\_\_\_  
Ralph J. McGill, Member

\_\_\_\_\_  
W. A. Alexander, Member