

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 21528
of Stanley Johnson and Applications
21531 and 21533 of the Johnson Stock
Company to Appropriate from Unnamed
Streams in Modoc County

Decision D 1249

ADOPTED JUN 1 1966

DECISION APPROVING APPLICATIONS

Stanley Johnson having filed Application 21528 and the Johnson Stock Company having filed Applications 21531 and 21533 for permits to appropriate unappropriated water; protests 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 21528 is for a permit to appropriate a total of 4 acre-feet per annum (afa), by storage, from three unnamed streams tributary to Clear Lake Reservoir. The points of diversion are located within the NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 1, the NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 12, T47N, R6E, and the SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 7, T47N, R7E, MDB&M.

Application 21531 is for a permit to appropriate 6 afa, by storage, from an unnamed stream tributary to Lost River. The point of diversion is located within the SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 14, T48N, R6E, MDB&M.

Application 21533 is for a permit to appropriate 2 afa, by storage, from an unnamed stream tributary to Clear Lake Reservoir. The point of diversion is located within the NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 3, T47N, R7E, MDB&M.

The storage season named in the applications is from October 15 of each year to April 15 of the succeeding year. Water is to be used for stockwatering and fire protection in Modoc County.

2. Application 21528 covers use of water at three reservoirs referred to as reservoirs Nos. 39, 41, and 42. Reservoirs Nos. 39 and 41 have been in existence for a number of years. Reservoir No. 39, which has a capacity of approximately 2 acre-feet, is located approximately 4 miles upstream from Clear Lake Reservoir, and reservoir No. 41, which has a capacity of approximately 1 acre-foot, is off-stream from the unnamed stream on which reservoir No. 39 is located. A drain ditch connects reservoirs Nos. 39 and 41. Reservoir No. 42 is to be constructed approximately 1 mile southeast of reservoir No. 39 in a swampy area above Clear Lake Reservoir and will have a capacity of 1 acre-foot.

Application 21531 covers use of water at a reservoir with a capacity of 6 acre-feet located approximately 1 $\frac{1}{2}$ miles

upstream from Lost River. Application 21533 covers use of water at a reservoir with a capacity of 2 acre-feet located approximately 2 miles upstream from Clear Lake Reservoir. Both of these reservoirs have been in existence for a number of years.

3. Water in the reservoirs will be used as part of the supply necessary for the watering of approximately 1,500 head of stock and for standby fire protection.

4. Protestant United States Bureau of Reclamation has constructed Clear Lake Dam and Reservoir as one of the features of its Klamath Project. Water rights covering the project have been recognized by the State of California in the Klamath River Basin Compact. Water stored in Clear Lake Reservoir is released into Lost River and is diverted at Malone Diversion Dam located approximately 10 miles below Clear Lake Dam for the irrigation of approximately 10,850 acres in the Langell Valley area.

5. The water impounded and to be impounded in the reservoirs covered by Application 21528 is available principally as the result of drainage work constructed and to be constructed by the applicant in swampy areas at the reservoir sites. Downstream from the reservoir covered by Application 21531, the stream channel is rocky and porous and eventually loses its identity. The reservoir covered by Application 21533 is located in a small, barren watershed where runoff rarely occurs. The water occurring at the sites of the reservoirs covered by all three applications would seldom, if ever, contribute to the protestant's supply.

6. The information furnished by the protestant indicates that shortages occur in Clear Lake Reservoir only during prolonged dry periods. During these periods of drought, there would be little, if any, water available for storage by the applicants at their reservoirs and any water available for storage would not reach protestants.

7. 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.

8. The intended use is beneficial.

From the foregoing findings, the Board concludes that Applications 21528, 21531, and 21533 should be approved, and that permits 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 Applications 21528, 21531, and 21533, and all relevant information on file therewith, particularly the report of field investigations made on April 22 and August 4, 1965, and the U. S. Geological Survey topographic maps of the area under consideration.

ORDER

IT IS HEREBY ORDERED that Applications 21528, 21531, and 21533 be, and they are, approved, and that permits be issued to the applicants subject to vested rights and to the following limitations and conditions:

1a. The water appropriated pursuant to permit issued on Application 21528 shall be limited to the quantity which can be beneficially used and shall not exceed 2 acre-feet per annum (afa) by storage at reservoir No. 39 and 1 afa by storage at reservoir No. 41 and 1 afa by storage at reservoir No. 42, for a total of 4 afa, to be collected from about October 15 of each year to about April 15 of the succeeding year.

1b. The water appropriated pursuant to permit issued on Application 21531 shall be limited to the quantity which can be beneficially used and shall not exceed 6 afa by storage, to be collected from about October 15 of each year to about April 15 of the succeeding year.

1c. The water appropriated pursuant to permit issued on Application 21533 shall be limited to the quantity which can be beneficially used and shall not exceed 2 afa by storage, to be collected from about October 15 of each year to about April 15 of the succeeding year.

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

3. After the initial filling of the storage reservoir(s), permittees' right under this permit extends only to water necessary to keep the reservoir(s) full by replacing water beneficially used or lost by evaporation or seepage and to refill if emptied for necessary maintenance or repair.

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 , 1966.

/s/ Kent Silverthorne
Kent Silverthorne, Chairman

/s/ Ralph J. McGill
Ralph J. McGill, Member

/s/ W. A. Alexander
W. A. Alexander, Member

4. The maximum quantity herein stated may be reduced in the license if investigation warrants.

5. Actual construction work on reservoir No. 42 (Application 21528) shall begin on or before June 1, 1967, and shall thereafter be prosecuted with reasonable diligence and if not so commenced and prosecuted, this permit may be revoked.

6. Construction work shall be completed on or before December 1, 1969.

7. Complete application of the water to the proposed use shall be made on or before December 1, 1970.

8. Progress reports shall be filed promptly by permittees on forms which will be provided annually by the State Water Rights Board until license is issued.

9. 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.

10. Permittees shall allow representatives of the State Water Rights Board and other parties, as may be authorized