

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Applications 21144)
and 22335 of Mariposa County Fish)
and Game Protective Association,)
Inc., to appropriate from West Fork)
Chowchilla River in Mariposa County)

Decision 1315
*amended
by order dated
5-20-71*

DECISION APPROVING APPLICATIONS

Mariposa County Fish and Game Protective Association, Inc., having filed Applications 21144 and 22335 for permits to appropriate unappropriated water; protests having been received; a public hearing having been held before the State Water Resources Control Board on February 20, 1968; applicant and protestant Chowchilla Water District having appeared and presented evidence; the evidence received at the hearing having been duly considered, the Board finds as follows:

1. Application 21144 is for a permit to appropriate 199 acre-feet per annum (afa) by storage from November 15 of each year to April 15 of the succeeding year for recreation, fish culture and fire protection from the Chowchilla River in Mariposa County. The point of diversion is to be located in Sections 22 and 27, T5S, R19E, MDB&M.

2. Application 22335 is identical to Application 21144 except that it is for 3,301 afa by storage from November 1 of each year to April 1 of the succeeding year.

3. The applicant proposes to construct a dam on the West Fork Chowchilla River immediately above its junction with Owl Creek. It will impound water in a reservoir, referred to as Bootjack Reservoir, which will have a capacity of approximately 3,500 acre-feet and a surface area of approximately 150 acres. The water will be used for recreation by local residents and tourists.

4. The average annual runoff of the West Fork Chowchilla River at the site of the reservoir is approximately 6,500 acre-feet. The stream usually ceases to have a continuous flow during the months of July, August and September.

5. Protestant Chowchilla Water District (hereinafter referred to as the District) holds License 8577 (Application 13175) to appropriate 50,000 acre-feet annually, collected to underground storage by spreading, from about November 1 of each year to about May 1 of the succeeding year at a maximum rate of 600 cubic feet per second (cfs), and 90 cfs by direct diversion from about March 1 to about July 31 of each year, from the Chowchilla River. The point

of diversion is approximately 8 miles east of the city of Chowchilla. The District has also filed Application 18732 for 300,000 afa by storage from the Chowchilla River at proposed Buchanan Dam, which is to be constructed by the U. S. Corps of Engineers under Application 18714 of the U. S. Bureau of Reclamation (hereinafter referred to as the Bureau). The District has entered into a contract with the Bureau for a supply of water from this project.

6. Flows of the Chowchilla River at the Buchanan damsite which exceed 1,500 cfs cannot be placed to beneficial use by the protestant and other downstream users due to the limitation of diversion facilities and the capacity of spreading grounds to absorb water. Also, due to the same factors, when the flows of the river exceed 1,500 cfs at the gage for a period of three days, flows in excess of 1,000 cfs on succeeding days are surplus to the needs of the District and other downstream users (Chowchilla Water District, Daily Runoff and Diversion Tabulation, files on Application 13175).

7. The records of the flows of the Chowchilla River at the Buchanan damsite show that flows of over 1,500 cfs occurred in 22 of the 39 years of record. In at least 18 of these years the flows exceeded 1,500 cfs repeatedly, and occasionally by very large amounts.

8. The permits issued on Applications 21144 and 22335 should provide that the permittee's right to divert under the permit is restricted to times when the flow of the Chowchilla River as measured at the U.S.G.S. Gaging Station "Buchanan Damsite near Raymond" exceeds 1,500 cfs, except that, when the flows at that station exceed 1,500 cfs for three consecutive days, the permittee may divert on succeeding days if the flows are in excess of 1,000 cfs.

9. Once the applicant's reservoir is filled, the only depletion of flow in the Chowchilla River that will result from the applicant's project will be due to evaporation and seepage at the reservoir. Due to the granitic composition of the bedrock at the site of the reservoir and for a considerable distance downstream, most all of the water seeping from the reservoir will reach the underground supply available to the District (California Division of Mines and Geology, "Geologic Map of California-Mariposa Sheet").

The applicant contends that evaporation losses from the reservoir will be less than the quantity of water presently consumed by native brush, trees and phreatophytes which now exist at the site of Bootjack Reservoir and which will be eliminated by the construction of the reservoir. In support of this contention the applicant offered in

evidence, over objection by the District, its Exhibit No. 4. A ruling on the admissibility of this exhibit was reserved to allow the applicant an opportunity to furnish further foundation for its admission. Documents submitted by the applicant since the hearing fail to establish the necessary foundation for the reception of the exhibit in evidence and the objection is sustained.

Although the applicant has failed to prove the specific quantity of water its project will salvage, it is well established that the clearing of brush, trees and phreatophytes will result in water salvage. The fact that a portion of water that is now available to the District will be from an artificial (salvage) source rather than from natural flow is no cause for objection by the District (W. R. Wiggins v. Muscupiabe Land and Water Company, 113 Cal. 182, 196, 45 P. 160).

A determination of the relation between water to be salvaged through clearing operations at the reservoir site and water lost through evaporation is unnecessary for the approval of Applications 21144 and 22335 as unappropriated water is presently available to satisfy the applications in most years during the requested diversion season. However, it is noted that the Bureau in withdrawing its protest agreed with the conclusion of the applicant that

the quantities of water that will be salvaged will exceed that which would be lost by evaporation at the reservoir (Bureau of Reclamation letter of November 28, 1967, to State Water Rights Board and the Bureau's memorandum of May 23, 1967, in file of Application 22335).

10. As the applicant has made a claim that its project will salvage water through clearing operations, it is proper that the permits issued on Applications 21144 and 22335 should contain a term requiring the permittee to keep the reservoir free of phreatophytes.

11. Studies show that little, if any, unappropriated water will be available to the applicant after Buchanan Dam is constructed except to the extent water is salvaged. At that time, unless there is a considerable change in past conditions, practically the entire flow of the Chowchilla River will be regulated and placed to beneficial use by the holders of prior rights. If Buchanan Dam is constructed prior to the construction of the applicant's project, the applicant has agreed to purchase water from the Bureau for the initial filling of its reservoir (RT 23, 24).

From the foregoing findings, the Board concludes that Applications 21144 and 22335 should be approved and that permits should be issued to the applicant subject to the limitations and conditions set forth in the order following.

ORDER

IT IS HEREBY ORDERED that Applications 21144 and 22335 be, and they are, 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 21144 shall be limited to the quantity which can be beneficially used and shall not exceed 199 acre-feet per annum by storage to be collected from about November 15 of each year to about April 15 of the succeeding year.

(b). The water appropriated pursuant to Application 22335 shall be limited to the quantity which can be beneficially used and shall not exceed 3,301 acre-feet per annum by storage to be collected from about November 1 of each year to about April 1 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, permittee's right under this permit extends only to water necessary to keep the reservoir full by replacing water lost by evaporation and seepage, and to refill if emptied for necessary maintenance or repair.

4. Permittee's right to divert under this permit is restricted to times when the flow of the Chowchilla River as measured at the U.S.G.S. Gaging Station "Buchanan Dam site near Raymond" exceeds 1,500 cubic feet per second (cfs), except that, when the flows at this station exceed 1,500 cfs for three consecutive days, permittee may divert on succeeding days if the flows are in excess of 1,000 cfs.

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

6. Actual construction work shall begin on or before December 1, 1970, and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted this permit may be revoked.

7. Said construction work shall be completed on or before December 1, 1972.

8. Complete application of the water to the proposed use shall be made on or before December 1, 1973.

9. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the State Water Resources Control Board until license is issued.

10. 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 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.

11. 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.

12. Water entering the reservoir or collected in the reservoir during and after the current storage season shall be released into the downstream channel to the extent necessary to satisfy downstream prior rights.

Permittee shall install and maintain an outlet pipe of adequate capacity in its dam as near as practicable to the bottom of the natural stream channel, or provide other means satisfactory to the State Water Resources Control Board to comply with the preceding paragraph.

13. In accordance with the requirements of Water Code Section 1393, 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. Permittee shall

keep the reservoir and the area around its perimeter free of phreatophytes, taking whatever measures are necessary to accomplish this objective on a regular maintenance basis.

14. Construction of the dam shall not be commenced until the Department of Water Resources has approved plans and specifications.

Adopted as the decision and order of the State Water Resources Control Board at a meeting duly called and held at Sacramento, California.

Dated: OCT 24 1968

GEORGE B. MAUL
George B. Maul, Chairman

W. A. ALEXANDER **ABSENT**
W. A. Alexander, Vice Chairman

RALPH J. MCGILL
Ralph J. McGill, Member

NORMAN B. HUME
Norman B. Hume, Member

E. F. DIBBLE
E. F. Dibble, Member

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 22407)
of Surety Leasing Corporation)
to Appropriate from Wolf Creek)
in Lake County)

ORDER AMENDING ORDER IN DECISION 1316
AND DENYING PETITION FOR RECONSIDERATION

On November 7, 1968, the State Water Resources Control Board adopted Decision 1316 in which the Board approved in part Application 22407 of Surety Leasing Corporation.

On November 29, 1968, Yolo County Flood Control and Water Conservation District, protestant to Application 22407, filed a petition for reconsideration of Decision 1316. The reconsideration requested is for the limited purpose of having the Board consider amending Condition 12 contained in the Board's order to designate Moore Dam, rather than the U. S. Gaging Station "near Yolo", as a point where flow surplus to the rights of the petitioner is to be determined. Return flows enter Cache Creek between these two points and the flow passing the gaging station under some circumstances is not equivalent to the flow at Moore Dam, the petitioner's lowermost point of diversion.

The proposed amendment will be made on the Board's own motion. Reconsideration of Decision 1316 under the petition is unnecessary.

GOOD CAUSE APPEARING, IT IS HEREBY ORDERED that Condition 12 of the Board's order in Decision 1316 be amended to read as follows:

"Permittee shall restrict its diversion under this permit to times when water flows past Moore Dam, the lowermost point of diversion of Yolo County Flood Control and Water Conservation District."

IT IS FURTHER ORDERED that the petition for reconsideration of Decision 1316 filed by Yolo County Flood Control and Water Conservation District be, and it is, denied.

Adopted as the order of the State Water Resources Control Board at a meeting duly called and held at Anaheim, California.

Dated: December 5, 1968

GEORGE B. MAUL
George B. Maul, Chairman

W. A. ALEXANDER
W. A. Alexander, Vice Chairman

RALPH J. MCGILL
Ralph J. McGill, Member

NORMAN B. HUME
Norman B. Hume, Member

E. F. DIBBLE
E. F. Dibble, Member

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Applications 21144
and 22335 of Mariposa County Fish
and Game Protective Association, Inc.,
to Appropriate from West Fork
Chowchilla River in Mariposa County



1315

ORDER AMENDING DECISION 1315

On October 24, 1968, the State Water Resources Control Board adopted Decision 1315 in which the Board approved Applications 21144 and 22335 of the Mariposa County Fish and Game Protective Association, Inc.

On November 15, 1968, the Chowchilla Water District, protestant to Applications 21144 and 22335, filed a petition for reconsideration of Decision 1315, limited to the following matters: (a) inclusion of a permit term requiring the permittee to maintain measuring devices to insure that the flows of the West Fork Chowchilla River will pass undiminished through the permittee's reservoir when the permittee is not authorized to divert; (b) provision for a reservoir outlet at stream level of sufficient capacity to allow releases of 1,000 cubic feet per second from the permittee's reservoir; (c) amendment of Permit Term 4 to limit the permittee from diverting under the permit after the construction of Buchanan Dam.

On December 5, 1968, this Board granted limited reconsideration of the decision in accordance with the petition.

On December 17, 1968, a staff letter was sent to the applicant and petitioner proposing that the decision be amended as follows:

(1) Add a permit term to read:

The quantity of water collected to storage will be based upon and measured by a staff gage installed by permittee in his reservoir and the relationship of staff readings to reservoir capacity as shown on the area-capacity curves on file with the State Water Resources Control Board. For this purpose, permittee shall make and record daily staff readings during the periods that surface flows are entering Bootjack Reservoir and submit said readings in an annual report to the Board as required by this permit.

(2) Amend Condition 4 of the order in the decision to read:

Permittee's right to divert under this permit is restricted to times when the flow of the Chowchilla River at the USGS gaging station "Buchanan Damsite near Raymond" or some other gaging station suitable to the Board exceeds 1,500 cubic feet per second (cfs), except that, when the flows exceed 1,500 cfs for three consecutive days, permittee may divert on succeeding days if the flows are in excess of 1,000 cfs.

By letter dated December 19, 1968, the applicant accepted these proposals. The petitioner, however, did not concur. Action in the matter was therefore deferred until the Board ruled on an application of the petitioner concerning the proposed Buchanan Dam project which had a direct bearing on the matters at issue. The Buchanan Dam decision (D 1365) was adopted by the Board on November 19, 1970.

On March 8, 1971, the petitioner advised that the terms in the staff's letter of December 17, 1968, were satisfactory and that further hearings appeared unnecessary.

The Board finds that the recommendations of the staff will satisfactorily carry out the intent of the Board in the adoption of Decision 1315, and that they should be implemented.

ORDER

IT IS ORDERED that Condition 4 of the order in Decision 1315, on page 8, be amended to read:

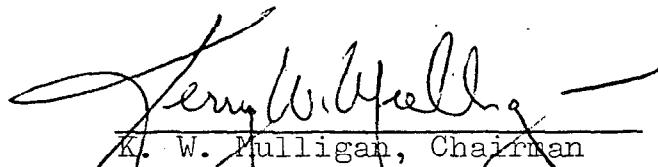
Permittee's right to divert under this permit is restricted to times when the flow of the Chowchilla River at the USGS gaging station "Buchanan Damsite near Raymond" or some other gaging station suitable to the Board exceeds 1,500 cubic feet per second (cfs), except that, when the flows exceed 1,500 cfs for three consecutive days, permittee may divert on succeeding days if the flows are in excess of 1,000 cfs.


IT IS FURTHER ORDERED that page 10 of the Order in Decision 1315 be amended by adding after Condition 14 the following:

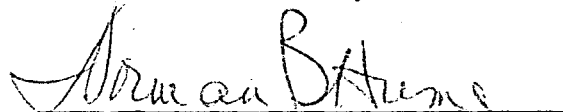
15. The quantity of water collected to storage will be based upon and measured by a staff gage installed by permittee in his reservoir and the relationship of staff readings to reservoir capacity as shown on the area-capacity curves on file with the State Water Resources Control Board. For this purpose permittee shall make and record daily staff readings during the periods that surface flows are entering Bootjack Reservoir and submit said readings in an annual report to the Board as required by this permit.

Adopted as the Order of the State Water Resources
Control Board at a meeting duly called and held at Los Angeles,
California.

Dated: May 20, 1971

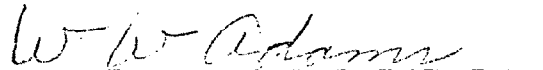

K. W. Mulligan, Chairman


E. F. Dibble, Vice Chairman


Norman B. Hume, Member

ABSENT

Ronald B. Robie, Member


W. W. Adams, Member