

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 23376
of Palm Springs Finance Company, a
California Corporation, to Appro-
priate from Coon Creek and an Un-
named Stream Tributary to Coon
Creek in San Luis Obispo County

Decision 1370

DECISION APPROVING APPLICATION IN PART

Palm Springs Finance Company having filed Applica-
tion 23376 for a permit to appropriate unappropriated water;
protests having been received; the applicant 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 Resources
Control Board pursuant to said stipulation; the Board, having
considered all available information, finds as follows:

Substance of the Application

1. Application 23376 is for a permit to appropriate
0.2 cubic foot per second by direct diversion from April 1 to
November 1 of each year and five acre-feet per annum (afa) by
storage from November 1 of each year to May 1 of the succeeding
year for irrigation, stockwatering, and fish culture purposes
from Coon Creek and an unnamed tributary in San Luis Obispo
County. The points of diversion are to be located within the
NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 30, T27S, R11E, MDB&M.

Applicant's Project

2. Coon Creek flows in a general southeasterly direction approximately one mile from its point of origin to its confluence with an unnamed tributary. The applicant proposes to construct a reservoir which will have a capacity of five acre-feet on the unnamed tributary just above its confluence with Coon Creek. The reservoir will impound winter runoff and during the summer months the applicant proposes to use it for regulating diversions from Coon Creek for irrigation purposes.

Protestants

3. Protestants claim pre-1914 appropriative and riparian rights to water from Coon Creek for irrigation, stockwatering and domestic purposes. Protestant Hugh A. Batement holds License 8975 (Application 21337) to appropriate 22.5 afa from Coon Creek from October 1 of each year to April 15 of the succeeding year for recreational purposes.

The protestants have no objection to any diversion of water to storage by the applicant prior to April 1.

Water Supply

4. There are no continuous records of the flows of Coon Creek or the unnamed tributary. On July 15, 1970, the time of field investigation on Application 23376, there was an estimated 60 gallons per minute surface flow in Coon Creek at the applicant's proposed point of diversion. Other portions of the creek bed were dry.

In most years Coon Creek is dry soon after the last rain in the spring and until the first substantial rain in the fall, normally in November.

During the winter months there is sufficient flow in the unnamed stream tributary to Coon Creek to fill the applicant's reservoir.

Availability of Unappropriated Water

5. At the field investigation on protestant Bateman's Application 21337 on August 26, 1964, it was determined that there was no unappropriated water in Coon Creek after April 15 and Bateman's diversion season was accordingly restricted. Protestant Bateman has no objection to the diversion of water prior to April 1 and the season to be allowed should be adequate to collect the quantity of water requested.

6. Unappropriated water is available to supply the applicant, 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.

8. A right to direct diversion restricted to the period from April 1 to April 15 would be of little or no value to the applicant and the direct diversion feature of Application 23376 should be denied entirely.

From the foregoing findings, the Board concludes that Application 23376 should be approved in part and that a permit should be issued to the applicant subject to the limitations and conditions set forth in the order following.

The records, documents, and other data relied upon in determining the matter are: Applications 23376 and 21337 and all relevant information on file therewith, particularly the report of field investigation made July 15, 1970, on Application 23376.

ORDER

IT IS HEREBY ORDERED that Application 23376 be, and it is, approved in part, and that a permit be issued to the applicant subject to vested rights and to the following limitations and conditions:

1. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed five acre-feet per annum by storage to be collected from November 1 of each year to April 1 of the succeeding year from an unnamed stream tributary to Coon Creek.

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.

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

3. Actual construction work shall begin on or before nine months from date of permit and shall 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, 1973.

5. Complete application of the water to the proposed use shall be made on or before December 1, 1974.

6. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control 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 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.

8. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

9. 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.

10. In order to prevent degradation of the quality of water during and after construction of the project, permittee shall file a report pursuant to Water Code Section 13260 and shall comply with any waste discharge requirements imposed by the California Regional Water Quality Control Board, Central Coast Region, or by the State Water Resources Control Board.

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

Dated: February 18, 1971

KERRY W. MULLIGAN

Kerry W. Mulligan, Chairman

E. F. DIBBLE

E. F. Dibble, Vice Chairman

NORMAN B. HUME

Norman B. Hume, Member

RONALD B. ROBIE

Ronald B. Robie, Member

W. W. ADAMS

W. W. Adams, Member