

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 23105
of MOORE BROTHERS
to Appropriate from Unnamed Stream
Tributary to Markham Ravine
in Placer County.

Decision 1383

DECISION APPROVING APPLICATION IN PART

Moore Brothers having filed Application 23105 for a permit to appropriate unappropriated water; a protest having been received; the applicant 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 Resources Control Board pursuant to said stipulation; the Board, having considered all available information, finds as follows:

Substance of the Application

1. Application 23105 is for a permit to appropriate 20 acre-feet per annum by storage from September 1 of each year to April 30 of the succeeding year for irrigation, recreational, stockwatering, fire protection and fish culture purposes from an unnamed stream tributary to Markham Ravine thence East Side Canal in Placer County. The point of diversion is located within the NW $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 18, T12N, R6E, MDB&M.

Substance of the Protest

2. South Sutter Water District filed a protest contending that the applicant's proposed appropriation would deplete the flow required to satisfy protestant's right to divert 50 cubic feet per second (cfs) from East Side Canal from September 1 of each year to June 15 of the succeeding year under Permit 15140 (Application 22102). Protestant authorized dismissal of its protest if the storage season in any permit issued be limited to the season from October 15 of each year to March 31 of the succeeding year.

Applicant's Project

3. In about 1950, the applicant constructed an earth dam about eight feet high and 200 feet long at the point of diversion set forth in Application 23105. The dam forms a reservoir with an area of about five acres and a capacity of about 20 acre-feet. Since that time, water has been used mainly for recreation, stockwatering, fish culture and fire protection purposes. However, when required, water is released into Becky Lake and used for irrigation through the system serving applicant's farming operations, which distributes water diverted under Permits 12794 (Application 18560) and 15887 (Application 23104). Permit 12794 authorizes storage in Becky Lake during the season from November 1 of each year to April 1 of the succeeding year and Permit 15887 authorizes storage in Lower Becky Lake during the season October 15 of each year to March 31 of the succeeding year.

Availability of Unappropriated Water

4. The drainage area tributary to protestant's point of diversion on East Side Canal is approximately 228 square miles,

which includes a drainage area of approximately 82.5 square miles tributary to Coon Creek, and a drainage area tributary to applicant's point of diversion of approximately five-tenths of a square mile. Analysis of precipitation and streamflow data reveal a correlation between 24-hour precipitation of one inch and mean daily discharge in Coon Creek in the order of 200 cfs.

5. On March 13, 1971, after a storm that produced 24-hour precipitation of slightly less than one inch, it was observed that water had just begun to flow in the principal tributary to applicant's reservoir. Therefore, it is concluded that there is flow at applicant's point of diversion only when there is flow in Coon Creek in the order of 200 cfs mean daily discharge.

6. Streamflow data from Coon Creek and correlations with other comparable streams (a total of 19 years of record) indicate that mean daily discharge flows in Coon Creek in excess of 200 cfs during the period of record did not occur in September and October and occurred in April as follows:

April 27-28, 1953
April 5, 1954
April 22, 1955
April 18, 1957
April 1-9, 1958
April 26, 1959
April 6-8, 10-11, 14-16, 1963
April 9-10, 16-17, 1965
April 4-8, 11, 1967

Protestant's Requirements

7. The protestant has filed a report on water diversion and use under Permit 15140 (Application 22102) and requested a license thereon. This report shows no use during September and October, and 900 acre-feet during April.

8. Observations made during April 1971 of protestant's operations disclosed the following:

(a) April 13 -- no stop logs in diversion dam and no water being diverted or used.

(b) April 22 -- stop logs in place, some diversion of water, excess flow 40 cfs, no recent precipitation.

(c) April 28 -- some diversion of water, excess flow 25 cfs.

Season of Diversion to be Allowed

9. Although protestant has no valid ground for objecting to diversions by the applicant in September and October, these months should not be included in the season of diversion allowed the applicant as flow at the applicant's point of diversion during these months occurs rarely, if ever. April should be included in the season of diversion allowed the applicant as some flow occurs at applicant's point of diversion on various days during April with a frequency of one out of every two years, and when such flow does occur, the flow at protestant's point of diversion greatly exceeds protestant's rights and requirements.

10. 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.

11. The intended use is beneficial.

From the foregoing findings, the Board concludes that Application 23105 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: Application 23105 and all relevant information on file therewith, particularly the reports of field investigations made May 21, 1969, and March 13, April 5, 13, 22 and 28, 1971.

ORDER

IT IS HEREBY ORDERED that Application 23105 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 20 acre-feet per annum by storage to be collected from about November 1 of each year to about April 30 of the succeeding year.

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. Complete application of the water to the proposed use shall be made on or before December 1, 1975.

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

6. 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.

7. 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.

8. Permittee shall, when required by the State Water Resources Control Board, install and maintain an outlet pipe of adequate capacity in his 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, 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.

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

Dated: September 2, 1971

KERRY W. MULLIGAN
Kerry W. Mulligan, Chairman

E. F. DIBBLE
E. F. Dibble, Vice Chairman

NORMAN B. HUME
Norman B. Hume, Member

ABSENT
Ronald B. Robie

W. W. ADAMS
W. W. Adams, Member