

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

In the Matter of APPLICATION 24964 )  
 )  
of DUANE G. and ROSEMARY S. BROOKINS ) Decision 1491  
 )  
to appropriate from an Unnamed Stream )  
 )  
in Napa County )  
 )  
\_\_\_\_\_ )

DECISION APPROVING APPLICATION

BY THE BOARD:

Duane G. and Rosemary S. Brookins having filed Application 24964 for a permit to appropriate unappropriated water; a protest having been received; the applicants 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 24964 is for a permit to appropriate 6.4 acre-feet of water per annum by storage from November 1 to April 1 of each year for irrigation and recreation purposes from an unnamed stream tributary to Sarco Creek in Napa County. The point of diversion is located within the SW $\frac{1}{4}$  of NE $\frac{1}{4}$ , projected Section 36, T6N, R4W, MDB&M.

Applicants' Project

2. Applicants have constructed a combination earth embankment and excavation type reservoir of approximately 6.4

1491

acre-feet capacity which intercepts runoff from an unnamed stream tributary to Sarco Creek. In addition to recreation at the reservoir, the applicants propose to irrigate about 1 acre of pasture.

### Protests

3. Application 24964 was protested by Delbert E. and Elvada M. Becker. The protestants hold License 8175 issued on Application 20451 and License 8980 issued on Application 22533. Said licenses authorize onstream storage of 9.5 acre-feet per annum to be collected from the unnamed stream tributary to Sarco Creek from November 1 of each year to May 1 of the succeeding year for irrigation, recreation, and fire protection purposes. Protestants' project is located several hundred feet downstream of the applicants' project. The protestants claim that the requested diversion and storage will interfere with their vested rights, and cause soil erosion with resulting siltation in their reservoir.

### Availability of Unappropriated Water

4. The source of water for the applicants' reservoir consists of about 6 acres of gently sloping terrain, most of which lies within the applicants' property.

5. Approximately 22 acre-feet of runoff should be available at the protestants' reservoir during 50 percent of the years. Subtracting the protestants' vested rights to 9.5 acre-feet, leaves 12 acre-feet of surplus water which would be available for appropriation. About half of this surplus

could be intercepted by the applicants' reservoir. During dry years, little or no runoff in excess of the protestants' rights would be available. During extremely dry years, runoff is insufficient to satisfy the protestants' needs.

Environmental Considerations

6. All environmental reviews necessary to comply with the California Environmental Quality Act have been completed.

Other Considerations

7. Applicants' reservoir intercepts all runoff reaching it until overflow occurs through the outlet pipe or over the spillway. Flow through the outlet pipe commences when the water level rises to about one foot below the spillway crest. No facilities exist to ensure protection of downstream prior vested rights or to bypass runoff collected outside the requested diversion season. Appropriate conditions are necessary for this purpose.

8. Soil erosion and resulting siltation in the protestants' reservoir may have been aggravated by construction of the applicants' project. The San Francisco Bay Regional Water Quality Control Board reviewed the matter and made recommendations to alleviate the problem. Applicant has implemented the recommendations and no further complaints have been received.

9. Applicants intended use of water is beneficial, the requested quantity is reasonable, and unappropriated water in sufficient quantity should be available in about 50 percent of the years, with reduced quantities in most of the other years.

Water may be collected to storage without causing injury to other lawful users of water provided appropriate conditions are included in the permit.

The records, documents, and other data relied upon in determining this matter are: the files on Applications 24964, 22533, and 20451, particularly the Engineering Staff Analysis of Record for Application 24964.

~~the California Department of  
Case No. 24964  
it until overflow occurs through  
exist to ensure protection of  
to appear in collection  
application of the  
Control Program  
alliance  
cases are under consideration~~

ORDER

IT IS HEREBY ORDERED that Application 24964 be approved and that a permit be issued to the applicants subject to vested rights. The permit shall contain all applicable standard permit terms<sup>1/</sup> in addition to the following conditions:

1. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 6.4 acre-feet per annum to be collected from November 1 of each year to April 1 of the succeeding year.

2. No water shall be diverted under this permit until permittee has installed facilities, satisfactory to the State Water Resources Control Board, which are capable of bypassing or releasing water that is necessary to protect downstream prior vested rights or that is not authorized for appropriation under this permit. Said facilities shall be properly maintained.

3. Permittee shall either (a) not collect water to storage during the authorized diversion season until overflow of the spillway facility under water rights Licenses 8175 and 8980 has occurred, or (b) release all or a portion of the water collected to storage in the reservoir since the previous November 1 when necessary to satisfy the rights under License 8175 and 8980; said release to be made by May 1 of each year.

4. Permittee shall install and maintain in his reservoir a staff gage meeting the approval of the State Water Resources Control Board for the purpose of determining water levels in the reservoir.

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<sup>1/</sup> The Board maintains a list of standard permit terms. Copies of these are available upon request.

4. (cont.)

Permittee shall supply the staff gage reading on or about November 1 of each year and April 1 of the succeeding year to the State Water Resources Control Board and to the owner of water rights Licenses 8175 and 8980 by April 15 of each year. Permittee shall allow the owners of Licenses 8175 and 8980 or their designated representative reasonable access to the reservoir for the purpose of determining staff gage readings.

acre-feet per day ...

Dated: MAR 15 1979

2. No water shall be

W. Don Maughan  
W. Don Maughan, Chairman

... ..

releasing water ...

William J. Miller  
William J. Miller, Member

... ..

L. L. Mitchell  
L. L. Mitchell, Member

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the spillway ...

has occurred ...

to storage ...

necessary ...

release ...

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a staff ...