

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 24897)
of Frederick H. Ziegenmeyer and)
Myra M. Ziegenmeyer to Appropriate)
from East Borrow Pit Sutter Bypass)
in Sutter County)

Decision 1493

DECISION APPROVING APPLICATION IN PART

BY THE BOARD:

Frederick H. and Myra M. Ziegenmeyer having filed Application 24897 for a permit to appropriate unappropriated water; a protest 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 Resources Control Board pursuant to said stipulation; the Board having considered all available information finds as follows:

Substance of the Application

1. Application 24897 is for a permit to appropriate 3 cubic feet per second (cfs) by direct diversion from April 15 to September 15 of each year for irrigation purposes from East Borrow Pit Sutter Bypass in Sutter County. The point of diversion is to be located within the NW $\frac{1}{4}$ of NE $\frac{1}{4}$, Section 32, T15N, R2E, MDB&M.

Applicants' Project

2. The applicant diverts water from East Borrow Pit Sutter Bypass by pumping at the rate of about 2,000 gallons per minute (gpm) directly into the adjoining field consisting of 112.5 acres. The place of use lies totally within the Sutter Bypass and is usually planted in rice.

Protest

3. Application 24897 was protested by Nevis Industries, which irrigates about 400 acres by diversion of water from Poodle Creek about three miles from the Ziegenmeyer diversion point. Protestant holds a license issued on Application 19749. During the irrigation season, Poodle Creek receives most of its flow from the East Borrow Pit through pipes in the levee on the east side of the borrow pit. Protestant claims that diversion by applicant will interfere with and deplete water diverted into Poodle Creek.

Existence of Unappropriated Water

4. Past Board Decision 1181 found that no unappropriated water is available from July 1 through August 31 in the East Borrow Pit of Sutter Bypass because of prior downstream rights on the Sacramento River and in the Delta. Numerous staff investigations have determined that hydraulic continuity exists between Sutter Bypass and the Sacramento River throughout each irrigation season.

5. Board records indicate that there is adequate water in the East Borrow Pit and Poodle Creek to satisfy both protestant and applicants during the periods April 15 to June 30 and September 1 to September 15.

6. The applicant has a contract with the U. S. Bureau of Reclamation to provide supplemental water during June, July and August.

7. Applicants' intended use of water is beneficial and water is available for diversion during the requested period.

Environmental Considerations

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

Other

9. The records, documents, and other data relied upon in determining the matter are: Files of Application 19749 and Application 24897 and all relevant information on file therewith, particularly the Engineering Staff Analysis of Record dated December 14, 1978.

ORDER

IT IS HEREBY ORDERED that Application 24897 be approved and that a permit be issued to the applicants subject to vested rights. The permit should contain all applicable standard terms (Board maintains a list of standard permit terms, copies of these are available upon request) in addition to the following limitations:

1. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 3 cubic feet per second (cfs) by direct diversion from April 15 to June 30 and September 1 to September 15 of each year for irrigation purposes. The maximum amount diverted under this permit shall not exceed 540 acre-feet per year.

2. The State Water Resources Control Board reserves jurisdiction over this permit for the purpose of conforming the season of diversion to later findings of the Board on prior applications involving water in the Sacramento River Basin and Delta. Action by the Board will be taken only after notice to interested parties and opportunity for hearing.

Dated: April 19, 1979

/s/ W. DON MAUGHAN
W. Don Maughan, Chairman

/s/ WILLIAM J. MILLER
William J. Miller, Member

/s/ L. L. MITCHELL
L. L. Mitchell, Member

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