

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 24783 to Appropriate from an Unnamed Stream in Sonoma County)	DECISION: 1508
Don Tubbs and Thompson Enterprises)	SOURCE: UNNAMED STREAM
Applicants)	COUNTY: SONOMA
Allen Krohn et al.,)	
Protestants)	

DECISION APPROVING APPLICATION

BY THE BOARD:

Don Tubbs and Thompson Enterprises having received assignment from Kenneth W. Beeler who filed Application 24783 for a permit to appropriate unappropriated water; protests having been received; the applicants and protestants having stipulated to proceedings in lieu of hearing as provided by Section 737, Article 14, Subchapter 2, Chapter 3 of Title 23, California Administrative Code; an investigation having been conducted by the State Water Resources Control Board pursuant to said stipulations; the Board having considered all available information, finds as follows:

Substance of Application

1. Application 24783 was filed on March 20, 1975 by Kenneth W. Beeler and seeks to collect to storage two acre-feet per annum from an unnamed stream tributary to Porter Creek, thence Mark West Creek, thence Russian River for recreation and fire protection. The point of diversion and place of use are located in the NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 11, T8N, R7W, MDB&M and the diversion season is to be from November 1 to March 1.

In July 1978 Application 24783 was assigned to Don Tubbs and Thompson Enterprises as joint owners.

Applicants' Project

2. The applicants' project was constructed in 1974 and consists of an earth dam six feet high creating a reservoir with a maximum capacity of two acre-feet and a surface area of one acre. The outlet from the dam consists of a 48-inch corrugated metal pipe with a gate on the upstream side for regulating the water. A 220 foot deep well with a five horsepower pump is used to pump groundwater for domestic use and for maintaining the level of the reservoir in the summer.

Protests

3. The application was protested by Allen and Penny Krohn and Mr. and Mrs. W. A. Stark on the basis of injury to vested rights; it would not best conserve the public interest; would be contrary to law; and would have an adverse environmental impact.

The protestants contend that the applicants' diversion will diminish the underflow which is used for sub-irrigation of an orchard, and surface flow for viewing pleasure and to keep the channel clear. The protestants also contend that the dam will create a possible flood hazard due to improper engineering; that the previous applicant did not obtain permits to construct and operate the project; that no provisions have been for an attendant to operate the project; and that there would be a loss of riparian habitat due to diminished flows in the stream.

Availability of Water

4. There are no records of the flow of the unnamed stream. The stream above the applicants' point of diversion drains a watershed of approximately 60 acres located in the Coast Range mountains between the elevation of 1,000 and 1,200 feet. The average annual rainfall for the watershed is estimated at more than 40 inches (DWR Bulletin 195).

5. The protestants' properties are approximately one-half mile downstream from the applicants and the drainage area contributing to the flow at their properties is 1590 acres and the area tributary to the applicants is only 60 acres. Considering the size of the applicant's reservoir the amount of rainfall and the relative size of the respective drainage areas, the flow in the unnamed stream should not be significantly reduced by the project. Therefore, operation of the project should not cause substantial injury to other lawful users of water.

Environmental Consideration

6. This decision authorizes a small storage project which is described in Paragraph 2. The project constitutes only a minor alteration in the condition of land, water and/or vegetation and is thereby exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) in accordance with Section 15104, Chapter 3, Title 14, California Administrative Code.

Other Considerations

7. Applicants' intended use of water is beneficial.

8. The issue of dam safety raised by the protestants comes within the jurisdiction of Sonoma County. The previous applicant has presented evidence that he obtained the necessary permits for the construction of the project and nothing in the record suggests that he has not fully

Records Relied Upon

The records, documents and other data relied upon in determining the matter are: Application 24783 and all relevant information on file therewith including the Engineering Staff Analysis dated January 25, 1979 and Notice of Exemption, dated March 8, 1979.

Conclusions

From the foregoing findings, the Board concludes that Application 24783 should be approved and that a permit should be issued to the applicants subject to appropriate permit terms set forth in the order following.

ORDER

IT IS HEREBY ORDERED that Application 24783 be approved and that a permit be issued to the applicants subject to vested rights. The permit shall contain all applicable standard permit terms (5c, 6, 9, 10, 11, 12, and 13)^{1/} 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 two acre-feet per annum to be collected from November 1 of each year to March 1 of the succeeding year.*
2. *Complete application of the water to the proposed use shall be made on or before December 1, 1983.*

^{1/} The Board maintains a list of standard permit terms included in all permits. Copies are available upon request.

Dated: JUNE 21, 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

/S/ CARLA M. BARD
Carla M. Bard, Member

