

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 25321)

EAGLE ROCK CONSERVATION MUTUAL)
WATER ASSOCIATION)

Applicant)

WELLS FARGO BANK, NATIONAL ASSOCIATION,)
TRUSTEE, HELLMAN ESTATE)

Protestant)

Decision: 1545

Source: Feliz Creek

County: Mendocino

DECISION APPROVING APPLICATION 25321 IN PART

BY BOARD MEMBER MITCHELL:

Eagle Rock Conservation Mutual Water Association having filed Application 25321 for a permit to appropriate unappropriated water; protests having been received; a pre-hearing field investigation having been conducted; a public hearing having been held by Board Member Mitchell on December 19, 1978; applicants and protestants having appeared and presented evidence; the evidence received at the hearing and investigation having been duly considered; the Board finds as follows:

Substance of the Application

1. Application 25321 is for a permit to appropriate 4,000 gallons per day by direct diversion from January 1 to December 31 for domestic and fire protection purposes. The point of diversion is within the NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 18, T13N, R12W, MDB&M.

Applicant's Project

2. Water will be pumped from Feliz Creek to a regulatory tank from which water will be distributed by gravity to four home sites. The applicant

estimates that 1,000 gallons per day will be used at each site for domestic and fire protection. Initially, some of the home sites will be used on a part-time basis but eventually the homes will be used year-round.

Protestants

3. The Department of Fish and Game filed a protest against the application. The Department withdrew its protest after the applicant accepted a term requiring certain bypass flows to protect fish life.

4. Wells Fargo Bank as Trustee under the Hellman Trust, protested the application under riparian claims and License 3895 (Application 13633). The protest was withdrawn subject to and under the following conditions which applicant agreed to:

(a) Protestant's rights under the existing license are not in any way compromised, diluted, or affected.

(b) Protestant reserves the rights to protest any future application for any water from Feliz Creek.

(c) Protestant will continue to have priority under his prior vested rights and to divert his licensed amounts prior to any diversion by the applicant.

Availability of Unappropriated Water

5. The 15 square mile watershed above the applicant's point of diversion is heavily wooded. Continuous stream flow records were taken between 1958 and 1966 about four and a half miles downstream from the proposed point of diversion. This information shows that there is no unappropriated water available during August, September and October of most years. Therefore, these months should be deleted from the diversion season.

6. The applicant's alternative source of water during the period when water is not available under this right is a storage reservoir under the applicant's permitted Application 25322.

7. The intended use is beneficial.

Environmental Considerations

8. Applicant's proposed project entails the following activity: installation of a small pump and plastic pipeline in the stream channel leading to a regulatory tank which serves four houses. This activity constitutes only a minor modification to land. Such activity 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.

Conclusions

9. From the foregoing findings, the Board concludes that Application 25321 should be approved in part and a permit issued to the applicant subject to the conditions set forth in the order following.

ORDER

IT IS HEREBY ORDERED that Application 25321 be approved in part and a permit issued to the applicant subject to vested rights. The permit shall contain all applicable standard terms (6, 7, 8, 9, 10, 11, 12, 13)* in addition to the following conditions:

* The Board maintains a list of standard terms.
Copies may be obtained upon request.

1. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 4,000 gallons per day to be diverted from January 1 to July 31 and from November 1 to December 31 of each year. The maximum amount diverted under this permit shall not exceed 3.4 acre-feet per year.

2. For the protection of fishlife the permittee shall during the period:

- (a) from December 1 through February 29 bypass a minimum of 10 cubic feet per second;
- (b) from March 1 through May 31 bypass a minimum of 1 cubic foot per second; and
- (c) from June 1 through November 30 bypass a minimum of 50 gallons per minute.

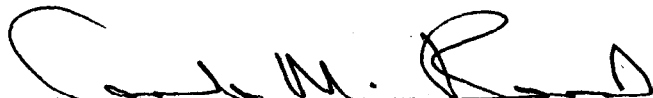
The natural flow shall be bypassed whenever it is less than the designated amount for that period.

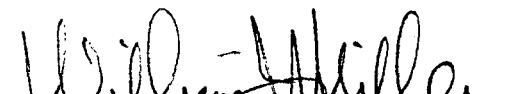
3. No water shall be diverted under this permit until permittee has installed a device, satisfactory to the State Water Resources Control Board, which is capable of measuring the flows required by the conditions of this permit. Said measuring device shall be properly maintained.

Dated: OCT 18 1979

WE CONCUR:


L. L. Mitchell, Member


Carla M. Bard, Chairwoman


William J. Miller, Vice Chairman


W. Don Maughan, Member