

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Applications 27849)
and 27850 for Temporary Permits of)
COCKRELL, INC., ET AL.,)
To Divert and Use Water from Hornback)
and Owl Creeks in Modoc County)

ORDER: 83-15

SOURCE: Hornback and
Owl Creeks

COUNTY: Modoc

ORDER DECLINING TO ISSUE TEMPORARY PERMITS

BY THE BOARD:

Applications 27849 and 27850 having been filed by Cockrell, Inc., on August 22, 1983, and the applications having been duly considered; the Board finds as follows:

1. Cockrell, Inc., and several neighboring ranchers have filed Application 27849 for a temporary permit to appropriate 911 acre-feet of water from Hornback Creek to underground storage from October 1, 1983 to June 30, 1984 for irrigation and wildlife enhancement purposes within the applicants' place of use in Modoc County.

2. Cockrell, Inc., has also filed Application 27850 for a temporary permit to appropriate 950 acre-feet of water from Owl Creek to underground storage from October 1, 1983 to May 31, 1984, for irrigation and wildlife enhancement purposes within the applicant's place of use in Modoc County.

3. By letter dated August 12, 1983, the applicants state that they have an urgent need to divert and use the water. Neither the applications nor any material submitted in support of the applications alleges any specific facts which constitute a showing of urgency.

4. Water Code Section 1425, subsection (a), authorizes issuance of a conditional temporary permit when the Board finds that an applicant has an urgent but only temporary need to divert and use water for a period not to

exceed six months and when the Board finds that the water may be diverted without injury to any lawful user of water, and without unreasonable effect upon fish, wildlife, or other instream beneficial uses. Subsection (b) authorizes issuance of a conditional temporary permit when the Board finds that a person who is an applicant for a permit has a need to divert and use water under unforeseen emergency conditions, and that such water may be diverted and used without injury to any lawful user of water, and without unreasonable effect upon fish, wildlife, or other instream beneficial uses.

5. In accordance with the authorization of Water Code Section 1425, the Board has adopted Resolution No. 77-16 delegating authority to Board members individually to act on applications for temporary urgency permits. Paragraph 6 of said Resolution delegates authority to individual Board members to decline to authorize issuance or renewal of a conditional temporary permit if the findings required by Chapter 6.5, Part 2, Division 2 of the Water Code (commencing with Section 1425) cannot be made; provided that the Board member shall report the findings supporting this decision to the Board at its next regular meeting. The Board must then adopt the Board member's findings and decision as its own, or decline to do so, and decide the matter itself.

6. Board Chairwoman Carole A. Onorato has reviewed the available information relating to the urgency of the District's need to divert water under a temporary permit, and on the basis of such review cannot make the findings required by Chapter 6.5, Part 2, Division 2 of the Water Code. Specifically, Board Chairwoman Onorato finds that the applicants have not alleged or established sufficient facts to constitute a showing of urgency or unforeseen emergency conditions as required by subsections (a) and (b) of Water Code Section 1425. Board Chairwoman Onorato declined to authorize issuance of temporary permits to the applicants and advised the applicants of this decision in a letter dated September 1, 1983.

7. The Board concurs in the findings and decision of Board Chairwoman Onorato as set forth in paragraph 6 above.

NOW, THEREFORE, IT IS ORDERED:

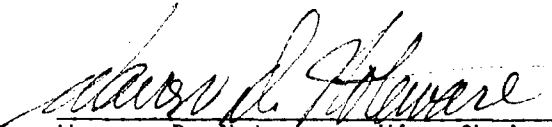
1. That the decision of Board Chairwoman Onorato to decline to issue temporary conditional permits on Applications 27849 and 27850 and the findings supporting such decision, are adopted as the decision and findings of the Board.

2. Applications 27849 and 27850 are denied.

Dated: September 15, 1983



Carole A. Onorato, Chairwoman



Warren D. Noteware, Vice Chairman



F. K. Aljibury, Member

ABSENT

Kenneth W. Willis, Member

