

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 18393)
by GEORGE F. YACKEY and M. Y. TAYLOR)
to Appropriate from Sandia Creek)
in San Diego County)

Decision No. 980

ADOPTED NOV 22 '60

DECISION APPROVING APPLICATION

George F. Yackey and M. Y. Taylor having filed Application 18393 for permit to appropriate unappropriated water; protests having been received; a public hearing having been held before the State Water Rights Board conducted by Kent Silverthorne, Chairman, March 29, 1960, in Los Angeles, California, the applicants and protestants having appeared; protestant United States of America appearing specially to present an objection to the proceedings on grounds of lack of jurisdiction, which was overruled; evidence having been received, and the Board, having considered same and now being fully informed in the premises, finds as follows:

1. Application 18393 is for a permit to appropriate 1,800 acre-feet per annum by storage from Sandia Creek in San Diego County to be collected between November 1 of each year and April 30 of the succeeding year in a proposed reservoir of 2,000 acre-feet capacity for domestic, irrigation, stock-watering, and recreational purposes in partial Section 25 and Section 36, T8S, R4W, and the $W\frac{1}{2}$ of $NW\frac{1}{4}$ of Section 31 and

partial Section 30, T8S, R3W, SBB&M. Protestant Fallbrook Public Utility District holds Permits 8511, 11356 and 11357 authorizing the appropriation of approximately 30,000 acre-feet per annum for its proposed project on the Santa Margarita River, to which Sandia Creek is a tributary.

2. Records of runoff of the Santa Margarita River at Fallbrook and Ysidora USGS gaging stations set forth below are taken from the Water Supply Papers of the USGS and show that water passes the site of the proposed Fallbrook dam in excess of 30,000 acre-feet and also wastes to the ocean on an average of once in every five years.

Gaged Runoff - Santa Margarita River
in Acre-feet

Water Year	Near Fallbrook	At Ysidora	Water Year	Near Fallbrook	At Ysidora
1923-24	--	2,360	1940-41	83,100	117,600
-25	3,660	790	-42	15,760	16,930
-26	12,500	15,700	-43	57,890	74,270
-27	85,100	91,200	-44	21,850	27,800
-28	5,480	4,000	-45	15,560	20,270
-29	4,830	1,360	-46	11,150	11,680
-30	8,680	No Record	-47	8,700	6,930
-31	4,920	3,660	-48	6,640	562
-32	36,900	40,600	-49	5,880	479
-33	6,940	6,520	-50	3,910	0
-34	4,870	5,010	-51	2,750	0
-35	7,780	12,990	-52	47,010	47,640
-36	7,070	11,060	-53	3,970	1,040
-37	78,310	117,200	-54	7,540	7,740
-38	91,090	122,000	-55	3,420	0
-39	18,850	22,900	-56	1,750	0
-40	16,720	22,320	-57	1,880	0

Studies of the Department of Water Resources for the period 1895-1953 (Page 29, Volume 1, Bulletin 57) indicate these conditions would occur only once in six years.

3. The operation of the Fallbrook reservoir for the purposes of cyclic storage in most years will not require the appropriation of the full 30,000 acre-feet authorized in the Fallbrook permits, as there will be some holdover storage. In respect to water which would normally spill, this is subject to appropriation if not required to satisfy downstream rights. An operation study of the Fallbrook reservoir shows it would spill in about one year out of five (R.T. 108-109). By correlating this study with records of runoff of the Santa Margarita River, as set forth in the table in paragraph 2, it can be seen that this spill would occur simultaneously with wastage to the ocean at Ysidora.

4. There is no definite completion date for the Fallbrook project. Until such time as the project is constructed, appropriation of water under Application 18393 can have no injurious effect upon Fallbrook and will result in the conservation of water that is now wasting into the ocean. An interim permit should be issued to the applicants to appropriate this water until it is stored by Fallbrook under its prior filings.

5. There is unappropriated water available to supply the applicant, and subject to suitable conditions, such water may be diverted and used in the manner proposed without causing substantial injury to any lawful user of water.

6. The intended use is beneficial.

7. An action is pending in the United States District Court, Southern District of California, Southern Division (United States of America v. Fallbrook Public Utility District et al., No. 1247-SD-C) to determine the rights of the plaintiff and other parties to the waters of the Santa Margarita River. A permit issued pursuant to Application 18393 will contain a provision that the Board retain jurisdiction for such period as may be necessary for the purpose of conforming the permit to the final judgment of the Court.

8. In respect to the contention made by the protestant that the applicants have failed to comply with Sections 700 and 754 of the Board's rules and regulations, it is found that there has been substantial compliance with those provisions.

From the foregoing findings, the Board concludes that Application 18393 should be approved and that a permit should be issued to the applicants subject to the terms and conditions set forth in the following Order.

IT IS HEREBY ORDERED that Application 18393 be, and the same is, approved and that a permit be issued to the applicants subject to vested rights and the following terms and conditions:

1. The amount of water to be appropriated shall be limited to the amount which can be beneficially used and shall not exceed 1,800 acre-feet per annum to be collected

between November 1 of each year and April 30 of the succeeding year.

2. The maximum amount herein stated may be reduced in the license if investigation warrants.

3. The right to use water under this permit is subject to Permits 8511, 11356, and 11357 (Applications 11587, 12178, and 12179) of Fallbrook Public Utility District and may, at such time as full beneficial use is made under such permits, be reduced in amount or terminated after hearing and further order by the State Water Rights Board.

4. Actual construction work shall be commenced on or before June 1, 1961, and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked.

5. Said construction work shall be completed on or before December 1, 1964.

6. Complete application of the water to the proposed use shall be made on or before December 1, 1965.

7. Progress reports shall be filed promptly by permittees on forms which will be provided annually by the State Water Rights Board until license is issued.

8. The Board retains continuing jurisdiction for such period as may be necessary for the purpose of conforming this permit to the provisions of the final judgment in United States of America v. Fallbrook Public Utility District et al., No. 1247-SD-C, U. S. District Court, Southern District of California, Southern Division.

9. All rights and privileges under this permit, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Rights Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

10. In accordance with Water Code Section 1393 permittee shall clear the site of the proposed reservoir of all structures, trees, and vegetation which would interfere with the use of the reservoir for water storage and recreational purposes.

11. A separate application for approval of plans and specifications for construction of the dam shall be filed with and approved by the Department of Water Resources prior to the construction of the dam described in this approved water right application.

Adopted as the decision and order of the State Water Rights Board at a meeting duly called and held at Sacramento, California, on the _____ day of _____, 1960.

Kent Silverthorne, Chairman

Ralph J. McGill, Member

Board member W. P. Rowe, having voluntarily for good cause disqualified himself in these proceedings, did not participate in this decision and order.