

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Applications  
25285 and 25286

CANDICE ASHBY,  
Applicant

VIRGINIA S. DOOLITTLE, H. ROBERT &  
NADINE L. RIPLEY, DANA & STEPHANIE  
RIPLEY, ELEANORE ROSE, ROBERT F. &  
MARLENE A. HEIL

Protestants

Decision: D1553

Source: Unnamed Streams

County: Alameda

DECISION APPROVING APPLICATIONS

BY THE BOARD:

Candice Ashby, having filed Applications 25285 and 25286 to appropriate unappropriated water; protests having been received; the applicant and protestants 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 stipulations; the Board having considered all available information, finds as follows:

Substance of the Applications

1. Application 25285 is for a permit to appropriate one acre-foot per annum by storage to be diverted from November 1 to April 1 for stockwatering purposes from an unnamed stream tributary to Palomares Creek in Alameda County. The point of diversion is within the SW $\frac{1}{4}$  of SE $\frac{1}{4}$  of projected Section 7, T3S, R1W, MDB&M.

2. Application 25286 is for a permit to appropriate four acre-feet per annum by storage (two reservoirs) to be diverted from November 1 to April for stockwatering purposes from unnamed streams tributary to Palomares Creek in Alameda County. The points of diversion are within the SE $\frac{1}{4}$  of SE $\frac{1}{4}$  projected Section 7, T3S, R1W, MDB&M.

Applicant's Projects

3. Applicant proposes to store water in three previously constructed reservoirs located on her property from unnamed streams tributary to Palomares Creek in Alameda County. The dams are all of earth-fill construction. Dam No. 1 is located on an intermittent stream having a total length of 1,800 feet with a drop of approximately 250 feet to Palomares Creek. Dam No. 1 is about 10 feet high, has a crest of about 50 feet, creating a reservoir with an estimated capacity of less than one acre-foot. Dams No. 2 and No. 3 are located on small, side drains to the main channel of another intermittent stream tributary to Palomares Creek. Dam No. 2 is about 20 feet high, has a crest of about 200 feet, and reservoir capacity is estimated at slightly over one acre-foot. Dam No. 3 is 16 feet high, has a crest of 60 feet, and has an estimated reservoir capacity of one acre-foot. All vegetation has been removed from the reservoir areas.

4. The water is to be used for watering approximately 100 head of cattle, horses and sheep. Total use as shown in the application would not exceed five acre-feet per annum.

Protestants

5. Protests against the applications were filed by Virginia S. Doolittle, H. Robert & Nadine L. Ripley, Dana & Stephanie Ripley, Eleanore Rose, Robert F. & Marlene A. Heil. While none of the protestants use water from the streams from which diversion is sought, three protestants (Ripley, Rose and Heil) own property downstream from the dams and question the safety of the dams. Their concern is that soil instability may cause the dams to fail and cause flooding. The fourth protestant, Virginia S. Doolittle located upstream from the dams, based her protest on the public interest of protecting the environment from flooding.

Availability of Unappropriated Water

6. The watersheds of these reservoirs are small and produce the following runoff based on an annual average precipitation of 20 inches with a 40 percent runoff factor:

<u>Dam</u>	<u>Watershed</u>	<u>Runoff Amount</u>	<u>Application Amount</u>
1	10 ac	7 af	1 af
2	15 ac	10 af	2½ af
3	15 ac	10 af	1½ af

Unappropriated water is available to supply the applicant in the seasons and amounts requested. Inflow to the reservoirs would cease soon after the rainy season.

7. The intended use is beneficial.

Environmental Considerations

8. Comparing the size and construction of Dam No. 1 with the small amount of potential runoff, damage to downstream property and the environment does not appear likely. The protestant owning property immediately downstream from Dam No. 1 withdrew her protests after improvements were made to the dam.

9. There are no downstream structures that could be damaged by flooding from a failure of Dams No. 2 and No. 3. Based on the small size of these reservoirs, environmental damage appears unlikely.

10. This Board decision authorizes the storage of five acre-feet of water for stockwatering purposes. Such activity constitutes only a minor modification to land, and 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.

Records in this Matter

11. The record, documents, and other data relied upon by the Board in this matter are files of Applications 25285 and 25286 and all relevant information on file therewith, particularly the Engineering Staff Analysis of Record dated October 23, 1978.

Conclusion

12. From the foregoing findings, the Board concludes that Applications 25285 and 25286 should be approved and a permit issued to the applicant subject to the conditions set forth in the order following.

ORDER

IT IS HEREBY ORDERED that Applications 25285 and 25286 be approved and that permits be issued to the applicant subject to vested rights. The permits shall contain all applicable standard permit terms (6,10,11,12 & 13)\* in addition to the following conditions:

1. The water appropriated (under Application 25285) shall be limited to the quantity which can be beneficially used and shall not exceed one acre-foot per annum to be collected from November 1 of each year to April 1 of the succeeding year.

2. The water appropriated under Application 25286 shall be limited to the quantity which can be beneficially used and shall not exceed a total of four acre feet per annum to be collected from November 1 of each year to April 1 of the succeeding year as follows:

\*This Board maintains a list of standard permit terms. Copies may be obtained upon request.

(1) 2½ acre-feet per annum in No. 2 Reservoir, and

(2) 1½ acre-feet per annum in No. 3 Reservoir.

3. Complete application of the water to the proposed use shall be made on or December 1, 1984.

4. After the initial filling of the storage reservoir, permittee's right under this permit extends only to water necessary to keep the reservoir full by replacing water beneficially used and water lost by evaporation and seepage, and to refill if emptied for necessary maintenance or repair. Such right shall be exercised only during the authorized diversion season.

5. This permit is subject to the continuing authority of the State Water Resources Control Board to reduce the amount of water named in the permit (or license) upon a finding by the Board that the amount is in excess of that reasonably needed to be held in storage for the authorized uses. No action will be taken by the Board without prior notice to the owner and an opportunity for hearing.

Dated: March 20, 1980

ABSENT  
\_\_\_\_\_  
Carla M. Bard, Chairwoman

ABSENT  
\_\_\_\_\_  
William J. Miller, Vice-Chairman

/S/ L. L. Mitchell  
\_\_\_\_\_  
L. L. Mitchell, Member

/S/ Jill B. Dunlap  
\_\_\_\_\_  
Jill B. Dunlap, Member

/S/ F. K. Aljibury  
\_\_\_\_\_  
F. K. Aljibury, Member

