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STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

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| In the Matter of Application 17530) | Source: Little Bogus Creek |
| by Harvey L. Ferber) | County: Siskiyou |

Decision No. D 899

Decided: May 14, 1958

In attendance at investigation conducted by the staff of
the State Water Rights Board on October 14, 1957:

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| Harvey L. Ferber | Applicant |
| S. B. Cairns | Protestant |
| J. J. Heacock | Senior Hydraulic Engineer representing the State Water Rights Board |

DECISION

Substance of the Application

Application 17530 is for a permit to appropriate 400 acre-
feet per annum by storage from January 1 to December 31 of each year
from Little Bogus Creek in Siskiyou County for irrigation purposes;
100 acres of alfalfa and 100 acres of pasture are to be irrigated.
Storage will be effected by an on-stream earthfill dam about 43 feet
high by 330 feet long located within the NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 27,
T47N, R5W, MDB&M. The reservoir will flood lands within the NW $\frac{1}{4}$ of
SE $\frac{1}{4}$ of said Section 27. Two hundred acres within the E $\frac{1}{2}$ of Section 27
will be irrigated by a portable pump and sprinklers, pumping to be

directly from the reservoir. Preliminary engineering work on the dam has been done by the Soil Conservation Service. The dam will be under jurisdiction of the California Department of Water Resources as to safety, and an outlet pipe through the dam will probably be required.

On October 14, 1957, the applicant requested that the season of diversion be changed to October 1 of each year to April 1 of the following year.

Protest

S. B. Cairns protests Application 17530, alleging that the proposed appropriation will deprive him of water to which he is entitled by virtue of a riparian right for irrigation purposes. He claims that use has been for approximately 50 years from about April 1 until the creek runs dry about July 1. His point of diversion is within the NE $\frac{1}{4}$ of Section 28, T47N, R5W, MDB&M.

Answer

In answer to the protest the applicant states that the protestant has not used water from this creek for irrigation during the seven years he (applicant) has lived there. He further claims the creek does not furnish sufficient water in the months of May, June and July to irrigate from ditches.

Field Investigation

The applicant and protestant, with the approval of the State Water Rights Board, stipulated to proceedings in lieu of hearing as provided for under Section 737 of the Board's rules, and a field investigation was conducted on October 14, 1957, by J. J. Heacock, an

engineer of the Board. Notice of the investigation was sent to all interested parties by certified mail. The applicant and protestant were present at the investigation.

Records Relied Upon

The records relied upon for support of this decision are Application 17530 and all relevant information on file therewith with particular reference to the report on the field investigation by an engineer of the Board referred to in the preceding paragraph and on file in the records of said application, entitled "Report of Field Investigation on Application 17530", dated October 30, 1957; Bulletin No. 1, State Water Rights Board, "Water Resources of California", 1951; and U. S. Geological Survey Water Supply Papers, Part 11, "Pacific Slope Basins in California"; and "Copco" quadrangle, 15 minute series, dated 1954.

Description of the Watershed

Little Bogus Creek, the source of the proposed appropriation rises on the westerly slopes of the Cascade Mountains and flows in a westerly direction about seven miles to its confluence with the Klamath River. The watershed above the applicant's proposed point of diversion has an area of about 7.4 square miles rising from about elevation 2,450 at the dam site to a maximum elevation of about 4,500 feet. About fifty per cent of the watershed is moderately sloping foothills with a medium covering of brush and trees, the balance is more steeply sloping with numerous outcrops of lava and a heavier covering of brush and trees. The eastern boundary of the protestant's property is about 0.75 miles downstream from the proposed dam site

and has a watershed of about 9.4 square miles.

Information Obtained by Field Investigation

According to the report covering the field investigation the protestant has not used water from Little Bogus Creek for the past four years. Prior to that time he had for many years irrigated about 16 acres of alfalfa or pasture adjacent to the north side of the creek by means of a temporary earth dam and ditch. The protestant stated his irrigation usually started about April 1 and continued until the creek would go dry, usually in July. The protestant's ditch is in fair condition and water can be used at any time when available, and his place of use is undoubtedly riparian to the stream. The report further indicated that flow of Little Bogus Creek was about 0.1 and 0.25 cubic foot per second, respectively, at the applicant's and protestant's points of diversion, at the time of the field investigation.

Other Information from Office Files

Plate 3 of Bulletin No. 1, State Water Resources Board, "Water Resources of California", dated 1951, indicates that the mean annual rainfall over Little Bogus Creek watershed is between 15 and 20 inches. Table 11 of the same bulletin indicates that at Yreka, at elevation 2,625 and about 20 miles to the southwest, mean annual rainfall for the period of record is 17.17 inches with 78% occurring during the October 1-April 1 period.

Table 15 of Bulletin No. 1, gives Estimated Seasonal Natural Runoff, 1894-95 to 1946-47 for Shasta River near Yreka; Klamath Basin, Copco to Seiad Valley; and Klamath River near Seiad Valley; and the

United States Geological Survey Water Supply Papers give the drainage areas for the respective basins. Bogus Creek is tributary to Klamath River between Copco and Seiad Valley.

The following tabulation summarizes the above data and shows the average annual runoff in acre-feet per square mile as estimated from the data for the various watersheds.

| Drainage Area | Bulletin No. 1 Average annual Runoff, A F | U.S.G.S. Drainage Area, sq.mi. | Runoff A F per sq.mi. |
|--|---|--------------------------------------|--------------------------|
| Shasta River near Yreka | 201,000 | 796 | 252 |
| Klamath Basin, Copco to Seiad Valley | 714,000 | 2610 | 273 |
| Klamath River near Seiad | 3,340,000 | 6980 | 478 |

Since the unit average annual runoff figures for Shasta River (above Yreka) and Klamath Basin (Copco to Seiad Valley) are so nearly equal, taking the smaller Shasta River figure of 252 acre-feet per square mile as applicable to the Little Bogus Creek area would appear to give a conservative estimate of the expected water supply on that creek. Based on that assumption the 7.4 square mile watershed above the proposed point of diversion would produce an average annual runoff of about 1,865 acre-feet of which, based on normal distribution of precipitation, approximately 1,440 acre-feet would occur between October 1 of each year and April 1 of the next year.

Discussion

The protestant's land is contiguous to the stream and may also have an early appropriative right. However, there appears to be

little evidence of use of water on the property from the source of the proposed diversion for four years. According to the protestant the use made by him in the past began about April 1 and extended to about July 1 or whenever the water ceased to be available. Since the applicant seeks permission to collect water to storage during the period of October 1 to April 1, there would be little or no interference with the protestant's use as it is claimed to have been made. Under the circumstances the water applied for could be stored without injury to the protestant, if proper provision is made by applicant to release past his storage works such natural flow after April 1 as the protestant may be entitled to.

Conclusions

The information indicates and the Board finds that unappropriated water usually exists in Little Bogus Creek during the season that appropriation is sought under Application 17530, that the intended uses are beneficial and that said application may be approved and permit issued subject to the usual terms and conditions without injury to any lawful user of water.

ORDER

Application 17530 for a permit to appropriate unappropriated water having been filed, a protest having been submitted, a field investigation having been made by the State Water Rights Board and said Board now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 17530 be, and the same is hereby approved, and it is ordered that a permit be issued to the applicant subject to vested rights and to the following terms and

conditions, to wit:

1. The amount of water appropriated shall be limited to the amount which can be beneficially used and shall not exceed 400 acre-feet per annum by storage to be collected from about October 1 of each year to about April 1 of the succeeding year.

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

3. Actual construction work shall begin on or before September 1, 1958, and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked.

4. Said construction work shall be completed on or before December 1, 1959.

5. Complete application of the water to the proposed use shall be made on or before December 1, 1961.

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

7. 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.

Adopted as the decision and order of the State Water Rights Board at a meeting duly called and held at Fresno, California, on the 14th day of May, 1958.

/s/ Henry Holsinger

Henry Holsinger, Chairman

/s/ W. P. Rowe

W. P. Rowe, Member

/s/ Ralph J. McGill

Ralph J. McGill, Member