

STATE OF CALIFORNIA  
STATE WATER RIGHTS BOARD

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In the Matter of Application 18316 )  
by Oscar A. Mellin to appropriate )  
from an unnamed stream in Santa ) Decision No. D 942  
Clara County )  
**ADOPTED NOV 12 '59**

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Substance of the Application

Application 18316, filed September 12, 1958, is for a permit to appropriate 14 acre-feet per annum by storage to be collected between October 15 of each year and January 15 of the succeeding year from an unnamed stream tributary to Uvas Creek in Santa Clara County for irrigation purposes. Water is collected by an earth storage dam 35.5 feet high and 230 feet long, located within the NE $\frac{1}{4}$  of SW $\frac{1}{4}$  of Section 3, T10S, R2E, MDB&M\*. The water impounded by the dam forms a reservoir with a surface area of 1.5 acres and a capacity of 14 acre-feet. The water is to be used for the irrigation of 8.5 acres of pasture within the SE $\frac{1}{4}$  of NW $\frac{1}{4}$  of said Section 3.

Protest and Answer

A protest against approval of Application 18316 was submitted by South Santa Clara Valley Water Conservation District which holds Permit 10000 (Application 13886) to appropriate from Uvas Creek at a point below the confluence of Uvas

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\* Hereinafter all township references are from Mount Diablo Base and Meridian (MDB&M).



Creek and the unnamed stream. The District claims that it has constructed Uvas Dam which forms a reservoir with a capacity of 10,000 acre-feet; that the permit allows the District to impound over 30,000 acre-feet per annum, and that the District has impounded in excess of 25,000 acre-feet; that this water is released down Uvas Creek and/or Llagas Creek for percolation into the ground-water basin and later recovered by the landowners in the District; and that all of this water is necessary to satisfy the needs of the users in the District below the dam.

In reply to the protest, the applicant states that the proposed appropriation is to be made from a small canyon in which water flows only after heavy rains and which does not normally contribute appreciably to Uvas Creek; that his dam will be able to impound a maximum of 15 acre-feet of runoff from a watershed entirely upon his own property during a time when there is excess flow in Uvas Creek; that there is considerable excess water that the District cannot control and that it is a portion of this excess water that he desires to appropriate.

#### Proceedings in Lieu of Hearing

A stipulation to the proceedings in lieu of hearing as provided for in Section 737 of the rules and regulations, was received from the applicant; a field investigation was conducted on April 16, 1959, by A. N. Webb, an engineer on the Board's staff. The applicant and protestant were present or represented at the investigation. A stipulation likewise

waiving a hearing was submitted by the protestant during the course of the investigation.

#### Records Relied Upon

The records relied upon in support of this decision are Application 18316 and all relevant information on file therewith, with particular reference to the report of field investigation made by the above-named engineer; Application 13886 of the South Santa Clara Valley Water Conservation District, and all relevant information on file therewith; United States Geological Survey, Water Supply Papers, Part 11, "Pacific Slope Basins in California"; Bulletin No. 7, State Water Resources Board, "Santa Clara Valley Investigation", dated June, 1955; records of the operation of Uvas Dam as compiled by the South Santa Clara Valley Water Conservation District; and United States Geological Survey "Mt. Madonna" quadrangle, 7½-minute series.

#### Source and Watershed

According to the Mt. Madonna quadrangle, the unnamed stream (source under Application 18316) rises in the Santa Cruz Mountains in Section 3, T10S, R2E, at about elevation 1200 feet and flows in a general northwesterly direction about 0.75 mile to its confluence with Uvas Creek. From this point Uvas Creek flows northeasterly, thence southeasterly about five miles to Uvas Dam. The watershed above the applicant's dam is about 145 acres as scaled from that quadrangle. According to the investigation report the watershed has a moderate-to-heavy covering of

brush and trees and is owned by the applicant. The watershed area above Uvas Dam scales about 30 square miles.

### Water Supply

The USGS Water Supply Papers contain records of the flow of Uvas Creek at the station "Uvas Creek near Morgan Hill, Calif.", for the period December, 1930, to September, 1956. This station, now discontinued, was located near the site now occupied by Uvas Dam. The yearly runoff in acre-feet, as recorded at this station, for the period of record is set forth in Table 1.

South Santa Clara Valley Water Conservation District diverts water at Uvas Dam under Permit 10000 (Application 13886) which allows a diversion of 100 cubic feet per second by direct diversion from about November 1 of each year to about July 31 of the succeeding year, and 30,000 acre-feet per annum by storage to be collected from January 1 to December 31 of each year. The reservoir, as contemplated under approved Application 13886, was to have a capacity of 20,000 acre-feet.

TABLE 1

Yearly Discharge at Station "Uvas Creek near Morgan Hill"  
(acre-feet)

Year	Discharge	:	Year	Discharge
1930-31	1,930	:	1945-46	15,190
-32	32,700	:	-47	9,950
-33	5,580	:	-48	6,020
-34	10,100	:	-49	13,840
-35	15,520	:	-50	10,800
1935-36	25,300	:	1950-51	39,920
-37	31,440	:	-52	54,880
-38	60,030	:	-53	19,920
-39	4,600	:	-54	13,660
-40	44,480	:	-55	9,700
1940-41	57,500	:	1955-56	56,560
-42	38,800	:		
-43	27,800	:	Average -	24,567 acre-feet
-44	17,280	:	Median -	18,600 acre-feet
-45	24,950	:		

Information Obtained from Field Investigation

The "Report of Field Investigation on Application 18316", dated May 12, 1959, indicates that the applicant's dam was constructed under the supervision of the Soil Conservation Service and forms a reservoir with a capacity of about 14 acre-feet. The dam was completed in August, 1958; and during a storm on or about January 6, 1959, the reservoir filled and spilled in about eight hours. The reservoir was full at the time of the investigation on April 16, 1959, with a small inflow and a small outflow.

According to the records compiled by South Santa Clara Valley Water Conservation District, during the 1957-58 season, apparently the first year Uvas Dam was in operation, a total of 25,159 acre-feet was impounded and later released by the District for percolation. Of this quantity 12,396 acre-feet were diverted by a gravity pipeline into Llagas Creek and 12,733 acre-feet were released down Uvas Creek. Up to April 14, 1959, of the 1958-59 season, a total of 3,317 acre-feet had been impounded and released, of which 1,852 acre-feet were released into Llagas Creek and 1,465 were released into Uvas Creek.

The District supplied the Board's investigating engineer the following additional information:

1. In 1958, first spill took place on February 21, at the rate of 5.2 acre-feet per hour. There was some spill every day thereafter until April 18, after which the reservoir remained nearly full until May 10. The peak spill recorded was on April 3, when the spill was at the rate of 156 acre-feet per hour.

2. In 1959, first spill took place on February 19, at the rate of 36.4 acre-feet per hour. There was some spill every day thereafter until March 4. The peak spill recorded was on February 21, when the spill was at the rate of 46.8 acre-feet per hour.

#### Discussion

According to Table 1 the average annual runoff of Uvas Creek for the 26 years of record extending from December 1, 1930 to September 30, 1956, was 24,567 acre-feet. During this period the total annual flow varied from a maximum of 60,030 acre-feet during water year 1937-38 to a minimum of 1,930 acre-feet during water year 1930-31. The annual flow has been less than 30,000 acre-feet, the amount of storage allowed under Permit 10000, during 16 of the 26 years of record.

If South Santa Clara Valley Water Conservation District were able to utilize the full permit quantity, both direct diversion and storage, there would be little or no additional water available for further appropriation during most years. However, only about 10,000 acre-feet can be impounded by the District at one time with Uvas Dam as presently constructed and the possibility of controlling the entire runoff of the watershed to the extent allowed under the permit is not possible during many years. The degree to which the water may now be captured and charged into the ground-water basin by the District largely depends upon the intensity of the runoff.

We have no specific information as to whether the District intends to enlarge the dam (Bulletin No. 7, State Water

Resources Board, "Santa Clara Valley Investigation", dated June, 1955, recommends a reservoir capacity of 34,000 acre-feet) or increase the capacity of its other facilities. Until such is done and the watershed is more fully developed substantial quantities of water will continue to waste to the ocean. It would not therefore be in the public interest to deny an application such as that under consideration even though water may be available only on an interim basis pending further development by the District under a prior right. According to the aforementioned Bulletin No. 7, the present draft on the ground-water basin of South Santa Clara Valley (as of the time the report was prepared) is 46,400 acre-feet per year, the present supplemental water requirements are only 7,100 acre-feet per year without the conservation created by Uvas Dam and the probable ultimate\* supplemental water requirements are only 21,300 acre-feet. It therefore appears that the full amount of water available to the District under Permit 10000 may not be required for some years to come and until it is required by the District the excess should be made available for appropriation.

#### Conclusion

The foregoing information indicates and the Board finds that there is presently unappropriated water in the source named in Application 18316 in most years, which water may be appropriated in the manner and at the times proposed in said

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\*Unspecified but long period of years in the future.



application without injury to prior vested rights; that at such time as the South Santa Clara Valley Water Conservation District makes use of water to the full extent authorized by Permit 10000 (Application 13886), there may be insufficient water to warrant further appropriation under rights junior to said permit; that Application 18316 should be approved and a permit issued upon the usual terms and conditions, and further, upon condition that right to use water under the permit is subject to Permit 10000 (Application 13886) and may at such time as full beneficial use is claimed thereunder be reduced in amount or terminated after investigation and hearing and further order by the State Water Rights Board.

#### ORDER

Application 18316 for a permit to appropriate unappropriated water having been filed, a protest having been received, stipulations to the proceedings in lieu of hearing having been submitted, an investigation having been held, and the State Water Rights Board having considered the available information and now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 18316 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 14 acre-feet per annum by storage to be collected from about October 15 of each year to about January 15 of the succeeding year.

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

3. Complete application of the water to the proposed use shall be made on or before December 1, 1962.

4. 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.

5. 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.

6. The right to use water under this permit is subject to Permit 10000 (Application 13886) and may at such time as full beneficial use is made thereunder be reduced in amount or terminated after hearing by the State Water Rights Board.

Adopted as the decision and order of the State Water  
Rights Board at a meeting duly called and held at  
California, on this            day of            , 1959.

Kent Silverthorne, Chairman

W. P. Rowe, Member

Ralph J. McGill, Member