

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 18366)
of Dante Louis Albasio and Earline)
Albasio to appropriate from Carson)
Creek in Calaveras County)

Decision No. D 954

ADOPTED FEB 2 '60

Substance of the Application

Application 18366, filed on October 9, 1958, is for a permit to appropriate 0.25 cubic foot per second by direct diversion from March 1 to November 1 and 49 acre-feet per annum by storage to be collected between October 1 and June 1. The point of diversion is within the SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 11, T2N, R13E, MDB&M. The water will be used on two acres of orchard and 13 acres of pasture and for the watering of 20 head of cattle.

Proceedings in Lieu of Hearing

The application was protested, insofar as it relates to direct diversion, by Pacific Gas and Electric Company on the basis of its License 985 (Application 2460) for power purposes at Melones Dam on the Stanislaus River. Applicants and protestant stipulated to the proceedings in lieu of hearing (Rule 737) and a field investigation was conducted on July 7, 1959, by L. K. Homer, an engineer of the Board's staff. The

954

applicants and protestant were given timely notice of the investigation. The protestant was not represented.

Records Relied Upon

The records relied upon in support of this decision are Application 18366 and all relevant information on file therewith, with particular reference to the report of field investigation made on July 7, 1959, by a staff engineer; License 985; U. S. Geological Survey San Andreas Quadrangle 15-minute series; U. S. Geological Survey Water Supply Papers, Part 11, "Pacific Slope Basin in California"; Water Resources Board Bulletin No. 1, "Water Resources of California", dated 1951.

Source

Carson Creek rises in the foothills northwest of the Town of Angels Camp at an elevation of approximately 1800 feet and flows southeast about nine miles to the Stanislaus River near the head of Melones Reservoir. The proposed point of diversion is about seven miles upstream from the Stanislaus River and the tributary watershed is approximately 1.7 square miles.

Information Obtained by Field Investigation

The applicants have constructed an earthfill dam 24.5 feet high by 210 feet long across Carson Creek forming a reservoir of a capacity of about 49 acre-feet. The proposed direct diversion, as well as the stored water, will flow through a 4-inch pipe through the base of the dam and will then be pumped through 1800 feet of pipeline to the place of use.

At the time of the investigation on July 7, 1959, the water was about 6 feet below the spillway crest, no water had been released from the reservoir for use during the year and there was no inflow to the reservoir. However, the stream channel showed evidence of a flow having occurred within the preceding 48 hours of an amount at least equal to the direct diversion requested, namely, 0.25 cfs. The investigating engineer reports that the summer flow is almost entirely seepage water from upstream irrigation and therefore the flow is irregular, depending upon the activities of the upstream water users. According to a statement by a Mr. Rolleri, the former owner of the Albasio Ranch, the flow in Carson Creek usually ceases about a mile below the applicants' dam by May 15 and he could not recall any time that flow had existed after June 1.

Discussion

Pacific Gas and Electric Company has a right under License 985 (Application 2460) to appropriate 132,450 acre-feet per annum by storage from about October 1 to about July 1 and 1500 cubic feet per second by direct diversion, year-round, from the Stanislaus River at Melones Dam for power purposes. The license is specifically conditioned as follows: "It is expressly recognized by all parties hereto that no rights to water, except stored water, are acquired under this license which may in the future operate to the disadvantage of irrigation development."

In view of the limitation of License 985 as quoted, the protestant may only assert a prior right to appropriate 132,450 acre-feet annually by storage to be collected between October 1 and July 1. According to Bulletin No. 1 (Table 62) the estimated seasonal natural runoff of Stanislaus River near Knights Ferry some 10 or 12 miles downstream from Melones Dam for the 53-year period 1895-1947 is 1,210,000 acre-feet. On the basis of Table 59 of the same bulletin it is reasonable to expect that about 90% of the runoff occurs during the October-July 1 period. For the last six years of published record by the U. S. Geological Survey, 1951-1956, the historical flow reaching Melones Dam has averaged some 1,300,000 acre-feet per year. It seems obvious that there is runoff substantially in excess of the rights of the protestant in the Stanislaus River.

Conclusion

The evidence indicates and the Board finds that unappropriated water frequently exists in the source named in Application 18366; that when such water occurs it may be taken and used by the applicant as proposed without injury to any lawful user of water; that the proposed use of water is beneficial, and accordingly the application should be approved and permit issued.

ORDER

Application 18366 for a permit to appropriate unappropriated water having been filed, 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 18366 be, and the same is, hereby approved and 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 to be appropriated shall be limited to the amount which can be beneficially used and shall not exceed 0.25 cubic foot per second by direct diversion, to be diverted from about March 1 to November 1 of each year and 49 acre-feet per annum by storage to be collected between October 1 of each year and June 1 of the succeeding year.

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

3. Construction work shall be complete on or before December 1, 1962.

4. Complete application of the water to the proposed use shall be made on or before December 1, 1963.

5. 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.

6. 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 duly called and held at _____, California, on this _____ day of _____, 1960.

Kent Silverthorne, Chairman

W. P. Rowe, Member

Ralph J. McGill, Member