

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 19928)
of Jan and Aniela L. Thomas to)
Appropriate from Sawmill Creek)
Tributary to French Creek in)
El Dorado County)

Decision D 1072

DECISION APPROVING APPLICATION

Jan and Aniela L. Thomas having filed Application 19928 for a permit to appropriate unappropriated water; protests having been received; the applicants 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 Rights Board pursuant to said stipulation; the Board, having considered all available information and now being fully advised in the premises, finds as follows:

1. Application 19928 is for a permit to appropriate 0.026 cubic foot per second (cfs) by direct diversion year-round for irrigation and domestic purposes from Sawmill Creek in El Dorado County. The point of diversion is to be located within the SW $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 8, T9N, R10E, MDB&M.

2. Applicants propose to divert at a small diversion dam to be constructed on Sawmill Creek at a point approximately 500 feet above its confluence with French Creek. French Creek

flows approximately five miles from the Sawmill Creek junction to join Big Canyon Creek. Big Canyon Creek flows approximately five miles from the French Creek junction to Cosumnes River.

3. On September 27, 1961, the flow of Sawmill Creek at a point approximately 100 feet upstream from the applicants' proposed point of diversion was four gallons per minute. At that time there was no flow in Sawmill Creek below the applicants' point of diversion and no flow in French Creek at points located 1 mile, $2\frac{1}{2}$ miles, and 4 miles below the Sawmill Creek and French Creek junction.

4. Protestant Cosumnes Irrigation Association diverts from the Cosumnes River approximately 20 miles downstream from the Sawmill Creek-French Creek junction. It holds License 2629 for 12.5 cfs and claims pre-1914 appropriative and riparian rights. Its maximum mean monthly diversion has been 25 cfs. Protestants George W. Artz and Hal Ellis divert from the same point as the Cosumnes Irrigation Association under claimed pre-1914 appropriative rights, riparian rights, and License 537 for 2 cfs. This use is for stockwatering and irrigation of 800 acres and is included in the 25 cfs used by the Cosumnes Irrigation Association. These protestants have no objection to the approval of the application except as it relates to diversions during the period from July 1 to October 15.

5. There is no water surplus to the needs of the protestants and other downstream users on the Cosumnes River

during the period from about July 1 to October 1 in most years. However, Sawmill Creek ceases to flow before it reaches French Creek by about June 1 in every year and makes no contribution to the Cosumnes River during the periods when there is insufficient water to satisfy the prior rights of the protestants and other downstream users.

6. There is unappropriated water available to supply the applicants, 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.

7. The intended use is beneficial.

From the foregoing findings, the Board concludes that Application 19928 should be approved and that a permit should be issued to the applicants subject to the limitations and conditions set forth in the following Order.

The records, documents, and other data relied upon in determining the matter are: Application 19928 and all relevant information on file therewith, particularly the report of the field investigation made September 27, 1961, Applications 1838 and 2296; United States Geological Survey "Shingles Springs" 7½-minute quadrangle; United States Geological Survey Water Supply Paper 1423, "Phreatophytes," and United States Geological Survey Water Supply Papers, Part 11, "Pacific Slope Basins in California."

IT IS HEREBY ORDERED that Application 19928 be, and the same is, approved, and that a permit be issued to the applicants subject to vested rights and to the following limitations 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 0.026 cubic foot per second by direct diversion to be diverted year-round. The equivalent of such continuous flow allowance for any thirty-day period may be diverted in a shorter time if there be no interference with vested rights.

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

3. Actual construction work shall begin on or before September 1, 1962, and 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, 1964.

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

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.

8. Permittees shall allow representatives of the State Water Rights Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.

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 , 1962.

Kent Silverthorne, Chairman

Ralph J. McGill, Member

W. A. Alexander, Member