

STATE OF CALIFORNIA  
STATE WATER RIGHTS BOARD

In the Matter of Application 5648A of )  
the Oakdale and South San Joaquin )  
Irrigation Districts and Tuolumne County )  
Water District No. 2 to Appropriate from )  
Middle Fork Stanislaus River in Calaveras )  
and Tuolumne Counties )

Decision D 1092

**ADOPTED JUN 26 '62**

DECISION APPROVING APPLICATION IN PART

In 1953 Oakdale and South San Joaquin Irrigation Districts (hereinafter referred to as Oakdale) received permits to appropriate water of Middle Fork Stanislaus River by means of a system of works commonly referred to as the Tri-Dam Project. This project was subsequently constructed and is now in operation. In order to secure a right with an earlier priority for the use of the same water, Oakdale requested, and in 1953 received, an assignment from the State of California of that portion of Application 5648 which relates to water of Middle Fork Stanislaus River. This application had been filed by the State in 1927. The assigned portion was designated as Application 5648A. The assignment was made expressly subject to full performance by Oakdale of all the conditions of an agreement between Oakdale and Tuolumne County Water District No. 2 (hereinafter referred to as Tuolumne), dated June 27, 1951. Said agreement provided, among other things,

for the diversion of certain water of Middle Fork Stanislaus River by Tuolumne through facilities of Oakdale and further provided that the water so diverted was to be under Application 5648.

Subsequent to the assignment, Application 5648A was amended and completed so as to describe both Oakdale's existing project and Tuolumne's proposed facilities, and a partial assignment of the application by Oakdale to Tuolumne was effected. As so amended, the application is for a permit to collect to storage a maximum of 60,000 acre-feet per annum of Middle Fork Stanislaus River water. The collection season is year-round. Under Oakdale's portion of the application, the water is to be stored in existing Donnells, Beardsley Flat, Melones, and Tulloch Reservoirs. It is to be released later for domestic use and irrigation of 143,457 acres within the boundaries of the irrigation districts.

Under Tuolumne's portion of the application, water is to be diverted at Donnells Dam into the tunnel leading to the Donnells Powerhouse. At the lower end of the tunnel and upper end of the powerhouse penstock a concrete plug has been installed. A conduit proposed by Tuolumne will tap the tunnel at this point and convey water to storage reservoirs on South Fork Stanislaus River and Sullivan Creek.

Protests to the application having been filed, a public hearing was held by the Board on June 7, 1961, in Sonora before Board Member Ralph J. McGill. The protests were

all adjusted by agreement among the parties, so there are no issues to be determined by the Board so far as protestants are concerned. However, the law requires that as a prerequisite to issuance of a permit to appropriate water there must be unappropriated water available to supply the applicant (Water Code Section 1375), and the Board is authorized to investigate and hear applications without regard to whether protests are outstanding (Water Code Sections 1251, 1342).

#### Availability of Unappropriated Water

In determining the extent to which unappropriated water may be available to applicants under Application 5648A, the operation of the existing Melones Reservoir is significant. This reservoir was constructed in 1926 by Oakdale and impounds water pursuant to pre-1927 appropriative rights. It has a capacity of approximately 112,500 acre-feet. Between 1927 and 1956 the most water in storage in Melones during the months of August or September was 63,300 acre-feet in August of 1927.\* This represents about 56 per cent of the storage capacity of Melones. On a monthly basis during the 1927-1956 period there was never a gain in storage in Melones during August or September. There was always a decrease in storage during these two months, and most of the time the decrease was substantial. This indicates that not only has all of the natural flow been diverted and used

---

\*USGS Water Supply Papers

downstream from Melones during August and September but that stored water has also been released to satisfy water demands. These circumstances tend to show no unappropriated water during August and September. In 29 of the 30 years from 1927 through 1956 there was a decrease in storage during the month of July, and most of the time the decrease was substantial. Spill occurred at Melones during the month of July in only six of these years and occurred less than forty per cent of the time during July in those six years. It is reasonable to conclude that unappropriated water does not exist in the main stream of the Stanislaus or its major tributaries when Melones is not spilling.

For these reasons, the months of July, August, and September should be deleted from the storage season in the permit to be issued pursuant to Application 5648A.

To avoid pyramiding of rights a term should be included in the permit providing that the quantity of water which permittees are authorized to appropriate under this permit shall be inclusive of, and not in addition to, quantities which permittees are entitled to divert to storage in Donnells, Beardsley Flat, Melones, and Tulloch Reservoirs under other rights.

Agreement with State Department of Fish and Game

Oakdale and the Department of Fish and Game stipulated (RT 36) that the same conditions be included in the permit

issued pursuant to Application 5648A as were included in the Tri-Dam Project permits issued to Oakdale. No objection was made to the inclusion of these terms in the permits, and there is no apparent reason why they should not be included. The inclusion of these terms will remove any objection that the Department of Fish and Game has to approval of Application 5648A.

Stipulation between Applicants and the  
Pacific Gas and Electric Company

The applicants and Pacific Gas and Electric Company entered into an oral stipulation at the hearing on June 7, 1961. The stipulation was reduced to writing on June 13, 1961, and a copy thereof was supplied to the Board. In return for the withdrawal of the Company's protest, the applicants agreed that any permit issued pursuant to Application 5648A shall be subject to the provisions of the June 27, 1951, agreement between Oakdale and Tuolumne. The permit should be made subject to that agreement.

Conclusions

Large quantities of unappropriated water frequently are present in the Stanislaus River system between October 1 and July 1 of each year at Donnells, Beardsley Flat, Melones, and Tulloch Reservoirs. A permit should be issued pursuant to Application 5648A for this period. The permit should be issued subject to the limitations and conditions set forth in

the following Order. There is no unappropriated water available to satisfy the applicants from July 1 to October 1 of each year.

ORDER

IT IS HEREBY ORDERED that Application 5648A be, and the same is, approved in part, 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 appropriated shall be limited to the amount which can be beneficially used and shall not exceed 60,000 acre-feet per annum by storage to be diverted from about October 1 of each year to about July 1 of the succeeding year.

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

3. Actual construction work on those facilities which are not yet constructed shall begin on or before December 1, 1964, and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked.

4. Construction work shall be completed on or before December 1, 1966.

5. Complete application of the water to the proposed use shall be made on or before December 1, 1970.

6. Progress reports shall be filed promptly by permittees 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.

9. This permit does not authorize collection of water to storage during the period from about July 1 to about October 1 of each season to offset evaporation and seepage losses or for any other purpose.

10. This permit shall be subject to the agreement between Oakdale Irrigation District, South San Joaquin Irrigation District, and Tuolumne County Water District No. 2, dated June 27, 1951, insofar as the terms of that agreement relate to matters within the jurisdiction of the Board.

11. The quantity of water which permittees are authorized to appropriate under this permit shall be inclusive of, and not in addition to, quantities which permittees are entitled to divert to storage in Donnell's, Beardsley Flat, Melones, and Tulloch Reservoirs under other rights.

12. Permittees shall maintain a flow in the Middle Fork Stanislaus River at a point upstream from the Donnell's Powerhouse, in the immediate vicinity of the existing Hells Half-Acre Bridge, of not less than 32 cubic feet per second during the months of May through October and 16 cubic feet per second during the months of November through April of each year, except that in dry years, as defined below, the flow shall not be less than 16 cubic feet per second throughout the year; provided also that permittees shall maintain a flow in the river channel at a point about one-half mile below Donnell's Dam of not less than 10 cubic feet per second during the months of May through October and 5 cubic feet per second during the months of November through April of each year, except in dry years, as defined below, the flow shall not be less than 5 cubic feet per second throughout the year. A dry year, as referred to above, shall be one in which the estimated seasonal runoff at Goodwin Dam, predicted by the California State Department of Water Resources on April 1, will be 500,000 acre-feet or less.

13. The permittees shall maintain a flow in the river channel immediately below Beardsley Flat Dam of not less than 50 cubic feet per second during the months of May through October and 25 cubic feet per second during the months of November through April of each year, except that in dry years, as defined above, the flow shall be not less than 25 cubic feet per second throughout the year; provided also, to the extent that can be



done consistently with the primary purposes of this project, namely, irrigation and power, the controllable releases from the Beardsley Flat Dam and powerhouse shall not be permitted to increase to double or decrease to half any prevailing rate of flow in less than one hour.

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