

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

ADOPTED FEB 21 1963

In the Matter of Application 19438
of Thomas G. and Doris Sladek to
Appropriate from Frenchman's Creek
in San Mateo County

Decision D 1106

DECISION APPROVING APPLICATION

Thomas G. and Doris Sladek having filed Application 19438 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 19438 is for a permit to appropriate 33 acre-feet per annum by storage from November 1 of each year to February 28 of the succeeding year for irrigation and stock-watering purposes from Frenchman's Creek in San Mateo County. The point of diversion is to be located within the SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 17, T5S, R5W, MDB&M.

2. The applicants have constructed two off-stream reservoirs, one having a capacity of 8 acre-feet (designated as No. 1) and one having a capacity of 25 acre-feet (designated

as No. 2). They divert at a small diversion dam, also used as a point of diversion by the protestants Santo located approximately 1.5 miles above the point where Frenchman's Creek empties into the Pacific Ocean.

3. Protestants Santo divert under claimed riparian and pre-1914 appropriative rights for the irrigation of 42 acres. Protestant Coastside County Water District holds Permit 13677 and others for the storage of 3,300 acre-feet from November 1 to May 1 at a reservoir to be constructed on the upper reach of Frenchman's Creek. Water is to be rediverted by the District at a point on the creek below the applicants' point of diversion.

4. During the winter season of 1960-61, a year of below-normal precipitation, all the local reservoirs presently being supplied by Frenchman's Creek, including those of the applicants, were filled, and there was a substantial flow of water passing the applicants' point of diversion.

5. The watershed between the applicants' point of diversion and the site of the District's proposed reservoir is approximately one square mile and contributes runoff to Frenchman's Creek during most years in sufficient quantities to satisfy the applicants and other users. The approval of Application 19438 will not interfere with the District's project.

6. On April 20, 1962, the time of the field investigation on the subject application, attorneys representing the protestants Santo requested an opportunity to submit information substantiating the claim of these protestants that during most

years there is insufficient water in Frenchman's Creek during the applicants' proposed diversion season to satisfy their uses under their claimed rights. On May 7, 1962, letters were sent to the protestants and their attorneys advising them that such information would be received and considered by the Board. No response was received.

7. There is ordinarily unappropriated water available to supply the applicants, and, subject to suitable conditions, such water may be diverted and used in the manner proposed during those times without causing substantial injury to any lawful user of water.

8. The intended use is beneficial.

From the foregoing findings, the Board concludes that Application 19438 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 19438 and all relevant information on file therewith, particularly the report of the field investigation made April 20, 1962, files of Permits 13677, 13678, 13679 and 13680 issued on Applications 17083, 18058, 19210 and 19211, respectively; the file of License 3220 (Application 11633); USGS Half Moon Bay and Montara Mountain quadrangles, 7.5-minute series, dated 1961 and 1956, respectively; University of California Agricultural Extension Service, San Mateo County, "Agriculture, Population Increase and Water Problems in San Mateo County," dated January 1956; and Decision D 1064 of the State Water Rights Board, dated February 9, 1962.

IT IS HEREBY ORDERED that Application 19438 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 appropriated shall be limited to the amount which can be beneficially used and shall not exceed 8 acre-feet per annum by storage at reservoir No. 1 and 25 acre-feet per annum by storage at reservoir No. 2, for a total of 33 acre-feet, to be collected from about November 1 of each year to about February 28 of the succeeding year, all as more explicitly set forth in paragraph 2(b) of this approved application.

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

3. Complete application of the water to the proposed use shall be made on or before December 1, 1966.

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. Permittee 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.

7. This permit does not authorize collection of water to storage during the period from about March 1 to about October 31 of each season to offset evaporation and seepage losses or for any other purpose.

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 , 1963.

Kent Silverthorne, Chairman

Ralph J. McGill, Member

W. A. Alexander, Member