

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 19961)
of O. P. and Lieurena G. Erdahl to)
Appropriate from an Unnamed Stream)
Tributary to Moore Creek in)
Napa County)

Decision D 1136

ADOPTED MAY 22 1963

DECISION APPROVING APPLICATION

O. P. and Lieurena G. Erdahl having filed Application 19961 for a permit to appropriate unappropriated water; protest having been received; the applicants and protestant 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 19961 is for a permit to appropriate 3 acre-feet per annum by storage from October 15 of each year to April 15 of the succeeding year for stockwatering purposes from an unnamed stream tributary to Moore Creek in Napa County. The point of diversion is to be located within the SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 25, T8N, R5W, MDB&M.

2. The applicants propose to divert at a point in a small wash where they have constructed a dam and a reservoir

with a capacity of approximately 3 acre-feet. The wash drains approximately 5 acres above the dam and continues on to enter an unnamed stream which flows into Moore Creek at a point approximately one-half mile below the applicants' dam. Moore Creek continues approximately one mile to join Chiles Creek. Chiles Creek continues from this junction approximately one-quarter mile to flow into Lake Hennessey which is located on Conn Creek.

3. Protestant City of Napa holds Permit 6960 for its Conn Valley Dam and Reservoir (Lake Hennessey) which authorizes the storage of 30,500 acre-feet from November 1 of each year to May 1 of the succeeding year and 35 cfs by direct diversion during the same period.

4. Actual diversions by the protestant pursuant to Permit 6960 during the period 1951 through 1959 ranged from 3,580 acre-feet in the year 1952 to 6,980 acre-feet in the year 1959. The quantity of water remaining in storage in Lake Hennessey for the same period, as of September of each year, varied from 22,200 acre-feet in the year 1955 to 27,000 acre-feet in the years 1952, 1953, and 1954.

5. A number of years will elapse before maximum use is reached pursuant to protestant's permit. During this interim period unappropriated water will continue to be available to supply the applicants. 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.

6. The intended use is beneficial.

7. The permit to be issued to applicants should contain a condition stating that rights acquired thereunder shall be subject to Permit 6960 and may be reduced in amount or terminated upon a showing of interference with said permit and after notice and opportunity for hearing by the State Water Rights Board.

From the foregoing findings, the Board concludes that Application 19961 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 19961 and all relevant information on file therewith, particularly the report of the field investigation made July 26, 1962; the files of Permit 6960 (Application 10990), License 5208 (Application 3172), and Permit 12943 (Application 19726); USGS Water Supply Papers, Part 11, "Pacific Slope Basins in California"; USGS Chiles Valley, Yountville, St. Helena, and Rutherford quadrangles, 7.5-minute series, dated 1958, 1956, 1960, and 1961, respectively; and Decision D 942.

ORDER

IT IS HEREBY ORDERED that Application 19961 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 3 acre-feet per annum by storage to be collected from about October 15 of each year to about April 15 of the succeeding year.

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 permittees 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. 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.

7. This permit does not authorize collection of water to storage during the period from about April 15 to about October 15 of each season to offset evaporation and seepage losses or for any other purpose.

8. This permit and all rights acquired thereunder are and shall remain subject to Permit 6960 (Application 10990) and may be reduced in amount or terminated upon a showing of interference with rights acquired under said permit after notice and opportunity for 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 Sacramento, California, on the _____ day of _____, 1963.

Kent Silverthorne, Chairman

Ralph J. McGill, Member

W. A. Alexander, Member