

STATE OF CALIFORNIA  
STATE WATER RIGHTS BOARD

In the Matter of Application 20616 )  
of Anita I. Harton and Bisset M. Muhlner )  
to Appropriate from an Unnamed Stream )  
Tributary to Conn Creek in Napa County )

Decision D 1138

**ADOPTED MAY 22 1963**

DECISION APPROVING APPLICATION

Anita I. Harton and Bisset M. Muhlner having filed Application 20616 for a permit to appropriate unappropriated water; protest having been received; the applicant 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 20616 is for a permit to appropriate 20 acre-feet per annum by storage from November 1 of each year to May 1 of the succeeding year for domestic, irrigation, stock-watering, and fire protection purposes from an unnamed stream in Napa County. The point of diversion is to be located within the NW $\frac{1}{4}$  of NW $\frac{1}{4}$  of Section 8, T7N, R4W, MDB&M.

2. Applicants plan to construct a diversion dam on the unnamed stream at a point approximately one mile above the point where the unnamed stream enters Lake Hennessey which is located on Conn Creek. Water will be diverted through 900 feet of 6-inch

pipe to an off-stream storage reservoir which will have a capacity of 17 acre-feet. The project will furnish water for 10 acres of pasture, one-half acre of lawn and gardens, and fifty head of cattle.

3. Water occurs in the unnamed stream at the applicants' point of diversion during the winter months in most years.

4. Protestant City of Napa holds Permit 6960 (Application 10990) 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.

5. 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 at Lake Hennessey for the same period, as of September of each year, varied from 22,200 acre-feet in the year 1955 to 27,500 acre-feet in the years 1952, 1953, and 1954.

6. It is reasonable to conclude that 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 applicant. 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.

8. The permit to be issued to applicants should contain a term stating that rights acquired thereunder shall be subject to Permit 6960 (Application 10990) and may be reduced in amount or terminated upon a showing of interference with said permit after notice and opportunity for hearing by the State Water Rights Board.

From the foregoing findings, the Board concludes that Application 20616 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 20616 and all relevant information on file therewith, particularly the report of the field investigation made June 6, 1962; the file of Permit 6960 (Application 10990); 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, 1951, 1960, and 1961, respectively; and Decision D 942.

#### ORDER

IT IS HEREBY ORDERED that Application 20616 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 20 acre-feet per annum by off-stream storage to be collected at

a maximum rate of diversion of 1.95 cubic feet per second from about November 1 of each year to about May 1 of the succeeding year.

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, 1963, 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, 1965.

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

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. 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.

9. This permit does not authorize collection of water to storage during the period from about May 1 to about November 1

of each season to offset evaporation and seepage losses or for any other purpose.

10. The right to use water under this permit is 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