

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 20768
of Clifford C. and Ruth Womble Spink
to Appropriate from Three Unnamed
Springs and from Indian Gulch
in Calaveras County

Decision D 1188

ADOPTED JUN 30 1964

DECISION APPROVING APPLICATION IN PART

Application 20768 having been filed; a public hearing having been held before the State Water Rights Board in Sacramento, California, on January 9, 1964, conducted by Board Member Ralph J. McGill, for the purpose of determining the existence of unappropriated water to satisfy the applicants; applicants having appeared and presented evidence; the evidence received at the hearing having been duly considered; the Board finds as follows:

1. Application 20768 is for a permit to appropriate 1 cubic foot per second (cfs) by direct diversion from May 1 to November 1 of each year and 32 acre-feet per annum by storage from November 1 of each year to April 30 of the succeeding year for irrigation purposes from three unnamed springs and Indian Gulch. The points of diversion are to be located within the $SE\frac{1}{4}$ of the $SW\frac{1}{4}$ of Section 3, T6N, R13E, MDB&M. At the hearing, the application was amended to eliminate the month of November from the storage season (RT 29).

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2. The three unnamed springs flow into Indian Gulch which flows through the applicants' property and continues approximately 2,000 feet to join the middle fork of the Mokelumne River. On November 14, 1962, the total flow from the unnamed springs was approximately 0.22 cfs.

3. The applicants' project is practically complete. They have used water for irrigation of orchard and pasture lands, both by direct diversion and storage at two reservoirs. The reservoirs, designated as Nos. 1 and 2, have a capacity of 1 acre-foot and 31 acre-feet, respectively. The applicants claim a riparian and a pre-1914 appropriative right to the use of the water.

4. A previous decision by the predecessor of the Board (D 858), Staff Exhibit No. 1, concerning several projects on the Mokelumne River, found that no unappropriated water was available in the Mokelumne River system during the months of July through November. There has been no showing of any change in circumstances since that decision that would justify a contrary conclusion at the present time. Further, an analysis by the Board of operation studies of the Central Valley Project (Staff Exhs. 4 and 5) indicates that after satisfying existing rights in the Sacramento-San Joaquin Delta and diversion requirements for the Central Valley Project, there will be no unappropriated water in the Sacramento-San Joaquin Delta, to which the Mokelumne River is tributary, during August and September and about 18 per cent of the time during July.

5. A permit for direct diversion for the remaining months of the proposed direct diversion season would be of no value to the applicants (RT 29 and 30). The direct diversion portion of the application should be denied in its entirety. However, such denial should not be construed as placing a limitation on any riparian or other right that may be held by permittees.

6. There is unappropriated water available for storage by the applicants from December 1 of each year to April 30 of the succeeding year, 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 20768 should be approved in part and that a permit should be issued to the applicants subject to the limitations and conditions set forth in the following Order.

ORDER

IT IS HEREBY ORDERED that Application 20768 be, and the same is, approved in part and that a permit be issued to the applicants subject to vested rights and 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 1 acre-foot per annum at Dam No. 1 and 31 acre-feet per annum at

Dam No. 2, for a total of 32 acre-feet per annum by storage, to be collected from about December 1 of each year to about April 30 of the succeeding year.

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

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

4. Complete application of the water to the proposed use shall be made on or before December 1, 1967.

5. 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.

6. 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.

7. 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.

8. Permittee shall install and maintain in Dam No. 2 an outlet pipe of adequate capacity as near as practicable to the natural stream channel, or provide other means satisfactory to the State Water Rights Board, in order that water entering the reservoir

or collected in the reservoir during and after the current storage season may be released into the downstream channel to the extent necessary to satisfy downstream prior rights and/or to the extent that appropriation of water is not authorized under this permit.

9. This permit does not authorize collection of water to storage during the period from about May 1 to about November 30 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 , 1964.

/s/ Kent Silverthorne
Kent Silverthorne, Chairman

/s/ Ralph J. McGill,
Ralph J. McGill, Member

/s/ W. A. Alexander
W. A. Alexander, Member