

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 21578
of James A. and Norma L. Piazza
to Appropriate from Mokelumne River
in San Joaquin County

Decision D 1219

ADOPTED MAY 28 1965

DECISION APPROVING APPLICATION IN PART

James A. and Norma L. Piazza having filed Application 21578 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 21578 is for a permit to appropriate 0.75 cubic foot per second (cfs) by direct diversion from May 1 to October 15 of each year for irrigation purposes from Mokelumne River in San Joaquin County. The point of diversion is located within the $SE\frac{1}{4}$ of $NE\frac{1}{4}$ of Section 28, T4N, R6E, MDB&M.

2. The applicants pump from the unobstructed channel of the Mokelumne River at a point approximately 17 miles upstream from its confluence with the San Joaquin River. The water is conveyed through approximately 3,500 feet of 14-inch pipe to irrigate approximately 60 acres of orchard. No change in the existing system is proposed.

3. Protestants Mark V. and W. E. Holthouse, located approximately 5 miles below the applicants, claim riparian rights and hold License 2729 (Application 6145) to divert 8.75 cfs from April 1 to November 1 of each year, for the irrigation of approximately 690 acres of orchard, clover, and other crops, from the Mokelumne River. They claim there is not sufficient water to satisfy their needs under these rights.

4. On February 21, 1963, the Board adopted Decision D 1109 on Application 19725 of Robert H. Simmons to appropriate from the Mokelumne River. In that decision the Board concluded that, due to the hydraulic continuity between the Delta and the Mokelumne River, there was no unappropriated water in the latter source during the months of July through September.

5. The protestants have no objection to the approval of the application with the months of July through September deleted, and the applicants have indicated that a permit with a diversion season accordingly restricted would be of value to them.

6. There is unappropriated water available to supply the applicants during the months of May and June and from October 1 to October 15 of each 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.

8. Applicants' land is contiguous to the source, and they claim a riparian right to the use of water therefrom, but

said claimed right has not been established by court decree. The permit should provide that upon a judicial determination that the land, or a portion thereof, is entitled to the use of water by riparian right, the right so determined and the right acquired under this permit shall not result in a combined right to the use of water in excess of that which could be claimed under the larger of the two rights.

From the foregoing findings, the Board concludes that Application 21578 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.

The records, documents, and other data relied upon in determining the matter are: Application 21578 and all relevant information on file therewith, particularly the report of the field investigation made on October 6, 1964, files of Applications 6145 and 19725; and Decision D 1109.

ORDER

IT IS HEREBY ORDERED that Application 21578 be, and it is, approved, and that a permit be issued to the applicants, subject to vested rights and to the following limitations and conditions:

1. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 0.75 cubic foot per second by direct diversion to be diverted from about May 1 to July 1 and from about October 1 to about

October 15 of each year. The equivalent of such continuous flow allowance for any thirty-day period may be diverted in a shorter time if there be no interference with vested rights.

2. The maximum quantity 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, 1968.

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. Upon a judicial determination that the place of use under this permit or a portion thereof is entitled to the use of water by riparian right, the right so determined and the right acquired under this permit shall not result in

a combined right to the use of water in excess of that which could be claimed under the larger of the two rights.

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 , 1965.

/s/ Kent Silverthorne
Kent Silverthorne, Chairman

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

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