

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

1222

In the Matter of Application 20625)
of the City of St. Helena to
Appropriate from Bell Creek
in Napa County

Decision D 1222

ADOPTED MAY 28 1965

DECISION APPROVING APPLICATION

Application 20625 of the City of St. Helena having been filed; a protest to the application having been received; a public hearing having been held before the State Water Rights Board in Napa, California, on March 5, 1964, conducted by Kent Silverthorne, Chairman; applicant and protestant having appeared and presented evidence; the evidence received at the hearing having been duly considered; the Board finds as follows:

1. Application 20625 is for a permit to appropriate 2,000 acre-feet per annum (afa) by storage from November 15 of each year to April 15 of the succeeding year for municipal purposes from Bell Creek in Napa County. The point of diversion is located within the SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 12, T8N, R6W, MDB&M.

2. Bell Creek originates at an elevation of approximately 2,800 feet and flows approximately 4.5 miles in a general southerly direction to the applicant's Bell Canyon Dam and Reservoir and continues southwest approximately 1.5 miles to join the Napa River.

3. The applicant holds Permit 9157 (Application 11816) to appropriate 1 cubic foot per second (cfs) by direct diversion and 1,800 afa by storage between November 15 of each year and April 15 of each succeeding year at its Bell Canyon Reservoir. The applicant proposes to raise the dam approximately 30 feet and increase the capacity of the reservoir by approximately 2,000 acre-feet.

4. In addition to its Bell Canyon Reservoir, the applicant has two reservoirs on York Creek with capacities of 200 afa and 40 afa. This supply is supplemented by approximately 1,000 afa of water purchased each year from the City of Napa which will not be available after the year 1968. Approximately one-third of the water stored in the Bell Canyon Reservoir cannot be used due to sulphides, which also limit the use of water from the larger York Creek Reservoir. Because of the foregoing circumstances and the City's anticipated increased demands, which are estimated to reach 4,400 afa by the year 1980, the supply of water available to the applicant will soon be fully utilized.

5. The record of the measured flows of Bell Creek covers only the period from January 1, 1949, through April 19, 1952. Estimates of the annual runoff of the creek range from 5,000 to 8,000 afa, exceeding the total quantity of water covered by the applicant's Permit 9157 (Application 11816) and the amount requested by Application 20625. There are no diversions of significance downstream from the applicant's point of diversion.

6. There is unappropriated water available to supply the applicant, 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. The intended use is beneficial.

7. A protest was filed by the Department of Fish and Game on the grounds that the applicant's proposed appropriation would destroy trout and steelhead present in the creek. An estimated average of 50 steelhead a year utilize the reach of the creek below the applicant's dam for spawning purposes, producing an estimated 3,000 fish annually. The protestant proposes that any permit issued to the applicant contain a condition that a flow of 5 cfs or the natural flow, whichever is less, be maintained in the creek during the period from December 1 through April 15 for the preservation of fishlife.

8. The applicant and the protestant have made estimates of the runoff of Bell Creek based on correlation of rainfall data at different stations in the general area of the canyon. From its estimates of the runoff, the applicant concludes that the maintenance of the proposed flows for fishlife would render its project infeasible (RT 95). The protestant concludes from its estimates that the maintenance of the proposed flows would have no substantial effect on the project (RT 90). Much depends upon the manner in which the project will be operated. The applicant has not made an operation study and most of its engineering work has been delayed until it receives approval from the Department of Water Resources to enlarge the reservoir.

9. Sufficient information is not available to determine whether the proposed term requiring the maintenance of flows for fishlife would best develop, conserve, and utilize in the public interest the water sought to be appropriated. Jurisdiction should be reserved to include such a term in the permit if warranted by further information. Following approval by the Department of Water Resources of the enlarged reservoir, the permittee should be required to furnish the Board with operation and feasibility studies from which it can be determined what effect maintenance of the proposed flows for fishlife would have on project feasibility. Protestant should be required, upon request by the Board, to furnish further information to show that a flow of less than 5 cfs would not be sufficient to maintain fishlife in the creek.

From the foregoing findings, the Board concludes that Application 20625 should be approved and that a permit should be issued to the applicant subject to the limitations and conditions set forth in the following Order.

ORDER

IT IS HEREBY ORDERED that Application 20625 be, and it is, approved, and that a permit be issued to the applicant 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 2,000 acre-feet per annum by storage to be collected from about November 15 of each year to about April 15 of the succeeding year.

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose.

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

3. Actual construction work shall begin on or before June 1, 1967, and shall be thereafter 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, 1968.

5. Complete application of the water to the proposed use shall be made on or before December 1, 1975.

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. In accordance with the requirements of Water Code Section 1393, permittee shall clear the site of the proposed reservoir above the present reservoir of all structures, trees, and other vegetation which would interfere with its use for water storage and recreational purposes.

10. Construction of the dam shall not be commenced until the Department of Water Resources has approved plans and specifications.

11. The Board retains jurisdiction to include a term providing for minimum flows below the reservoir for the maintenance of fishlife. Following approval of plans and specifications for the enlarged dam by the Department of Water Resources, and prior to commencement of construction, permittee shall furnish the Board with complete operation and feasibility studies. Upon request by the Board, the Department of Fish and Game shall submit additional information to show that a flow of less than 5 cfs would not be sufficient to maintain fishlife in the creek. The term shall be included in this permit only after notice to the parties and an opportunity for further hearing.

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