

STATE OF CALIFORNIA  
STATE WATER RIGHTS BOARD

In the Matter of Application 21559 )  
of Martha Speckert and A. Speckert, Sr., )  
to Appropriate from an Unnamed Stream )  
in Nevada County )

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Decision D 1228

**ADOPTED** AUG 25 1965

DECISION APPROVING APPLICATION IN PART

Martha Speckert and A. Speckert, Sr., having filed Application 21559 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 21559 is for a permit to appropriate 0.5 cubic foot per second (cfs) by direct diversion from September 1 of each year to July 1 of each succeeding year and 150 acre-feet per annum (afa) by storage from November 1 of each year to May 15 of the succeeding year for irrigation, domestic, recreational, fire protection, and fish culture purposes from an unnamed stream in Nevada County.

The points of diversion are to be located within the SE $\frac{1}{4}$  of NW $\frac{1}{4}$  and the NW $\frac{1}{4}$  of SW $\frac{1}{4}$  of Section 10, T16N, R10E, MDB&M.

2. The unnamed stream heads at an approximate elevation of 4,300 feet and flows in a general westerly direction approximately 2.5 miles to join Greenhorn Creek. Greenhorn Creek continues from this junction in a general southwesterly direction approximately 12 miles to the Bear River. There are no streamflow records for the unnamed stream or Greenhorn Creek. A USGS gaging station is located on the Bear River "near Auburn" between Lake Combie and Camp Far West Reservoir. On August 11, 1964, the time of the field investigation, the flow of the unnamed stream was estimated to be 0.5 cfs.

3. The applicants propose to construct a dam and a reservoir with a storage capacity of 150 acre-feet approximately 1.5 miles upstream from the unnamed stream's mouth and a diversion dam immediately upstream from the reservoir. The principal use of the water will be for the irrigation of 800 acres of pasture and for a proposed subdivision where approximately 1,500 homes will be constructed.

4. Protestant Nevada Irrigation District holds Permits 5803, 5804, and 11626 for its Rollins project at the junction of Greenhorn Creek and Bear River. Protestant South Sutter Water District holds Permit 11297 and Application 10221, and has obtained a release from the priority of Applications

5633 and 5634 for its Camp Far West project approximately 25 miles further downstream. Camp Far West Irrigation District is entitled to water from the latter project under an agreement with South Sutter Water District and by virtue of Licenses 2266 and 2740.

5. Board's Decision D 1095 limits the storage at Rollins Reservoir to 90,000 afa which is to be collected between December 1 and June 1. An additional 1,820 afa must be released from storage or bypassed to sustain fishlife. The records of the USGS gaging station "near Auburn" for the years 1941 through 1963, adjusted for the smaller watershed, show that during most years water in excess of the aforementioned quantities occurs at the Rollins Reservoir. Existing consumptive uses from the Bear River above the "near Auburn" gage, except for the Rollins project, were established prior to the year 1941.

6. An operation study for the Camp Far West Reservoir for the years 1941 through 1956 and the records of the flows of the Bear River at the USGS station "near Auburn" for the same period show that, with water excess to the needs of the Nevada Irrigation District for its Rollins project considered, all the flow of the Bear River is fully appropriated by the South Sutter Water District, Camp Far West District and lower users holding prior rights during the period of May through October. There is hydraulic continuity between the unnamed stream and the Bear River during this period.

7. There is unappropriated water available to supply the applicants from about November 1 of each year to about May 1 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.

8. The intended use is beneficial.

From the foregoing findings, the Board concludes that Application 21559 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 21559 and all relevant information on file therewith, particularly the report of the field investigation made August 11, 1964; Applications 2652 (Permits 5803 and 11626), 10221, 14804 (Permit 11297); Board's Decisions D 914 and D 1095; USGS Water Supply Papers with reference to the gage on Bear River "near Auburn"; and USGS quadrangles covering the area under consideration.

#### ORDER

IT IS HEREBY ORDERED that Application 21559 be, and it is, approved in part, 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 0.5 cubic foot per second by direct diversion to be diverted from about November 1 of each year to about May 1 of each succeeding year and 150 acre-feet per annum by storage to be collected during the same period. 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.

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, 1966, 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, 1967.

5. Complete application of the water to the proposed use shall be made on or before December 1, 1968.

6. 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.

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. 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.

9. Water entering the reservoir or collected in the reservoir during and after the current storage season shall be released into the downstream channel to the extent necessary to satisfy downstream prior rights and to the extent that appropriation of water is not authorized under this permit. Permittees shall install and maintain an outlet pipe of adequate capacity in their dam as near as practicable to the natural stream channel or provide other means satisfactory to the State Water Rights Board to comply with this paragraph. If the dam is of such size as to be within the jurisdiction of the State Department of Water Resources as to safety, the requirements of that Department regarding the installation of an outlet pipe will be acceptable for the purpose of this paragraph.

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

11. If the dam will be of such size as to be within jurisdiction of the Department of Water Resources as to safety, construction shall not be commenced until the Department has approved plans and specifications.

12. Permittees shall bypass year-round the following flow past the point of diversion for maintenance of fishlife: 1.0 cfs or the natural flow, if less than 1.0 cfs.

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