

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 21751)
of Sidney Johnson and Rosalie Johnson)
to Appropriate from Glennen Gulch)
in Mendocino County)

Decision D 1284

1284

DECISION APPROVING APPLICATION

Sidney Johnson and Rosalie Johnson having filed Application 21751 for a permit to appropriate unappropriated water; a protest having been received; the applicants 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 21751 is for a permit to appropriate 0.027 cubic foot per second (cfs) by direct diversion year-round for domestic use from Glennen Gulch, tributary to the Pacific Ocean, in Mendocino County. The point of diversion is to be located within the NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 20, T11N, R15W, MDB&M.

2. Applicants own and operate a year-round resort which fronts on the Pacific Ocean, has been in existence since

about 1929, and includes nine houses, one small hotel, three apartments and the manager's quarters. This application applies to the existing project, which supplies water to the resort and will continue to supply water in the future. The applicants' property extends up Glennen Gulch about one-third of a mile from the ocean. They divert water by gravity at a point located about a quarter of a mile upstream from their resort acreage. When for any reason applicants' upper pipeline is out of operation, they pump water into their system at a point where Glennen Gulch enters their property.

3. The protest of Harold Tamka admits that the applicants as riparians to Glennen Gulch have a right to use the water of the gulch when it reaches their property, but the protest challenges applicants' right to have their pipeline cross the Tamka property, and asserts that the protestant's own domestic and irrigation use, totalling about 2,000 gallons a day, would be interfered with by the proposed permit.

4. A gaging station was established in late October, 1964, on Glennen Gulch at the outlet of the concrete basin west of Highway 1. The daily discharge was measured for the period November 9, 1964, to October 31, 1965. Total water supply for this period was 1,600 acre-feet, and the lowest recorded flow, in October, was 0.05 cfs. The gaging station is located downstream from the points of diversion of applicants, protestants, and all users from Glennen Gulch. The water-year

1964-65 is regarded as about 17 percent above normal. The water-year 1963-64 was only 45 percent of normal. Spot checks on September 1, 1964, showed about two gallons per minute flowing to the ocean, and on September 24 showed no flow, but some water in pools below Highway 1 crossing. These spot checks are representative of minimal flows in a minimal water-year.

5. Applicants claim to have a right of access to the proposed point of diversion and for their pipeline by a 1929 deed and continuous use since that time. This is a matter for these parties to settle among themselves or with the assistance of a court. The issuance of a permit by the Board is not intended in any way to indicate that the Board finds the applicants have a legal right of access to the point of diversion, and a permit clause will so provide.

6. Unappropriated water is available to supply the applicants, 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 21751 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 21751 and all relevant information on file therewith, particularly the report of a field investigation made November 6, 1964, and an engineering analysis dated August 15, 1967. Also relied on:

1. Files of Application 21474, now canceled.
2. U.S.G.S. 7½-minute quadrangle, Gualala, California.
3. U.S.G.S. Water Supply Papers, Pacific Slope Basins in California, Part 11, for period of record.
4. U.S.G.S. Surface Water Records in California, 1961 through 1964.
5. U.S.G.S. Water Resources Data for California, 1965.

ORDER

IT IS HEREBY ORDERED that Application 21751 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 0.027 cubic foot per second by direct diversion to be diverted year-round.
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, 1971.

4. 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.

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. 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.

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.

8. The issuance of this permit shall in no way be construed as conferring upon permittee right of access to the point of diversion.

Adopted as the decision and order of the State Water Rights Board at a meeting duly called and held at Sacramento, California.

Dated: 11-30-67

/s/ George B. Maul
George B. Maul, Chairman

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

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