

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 24857)
to appropriate from Unnamed Streams)
tributary to Shady Creek,)
KENNETH BARNES DORRIS)
Applicant,)
SAN JUAN RIDGE COUNTY WATER DISTRICT)
Protestant)

Decision: 1501
Source: Unnamed Streams tributary
to Shady Creek
County: Nevada

DECISION APPROVING APPLICATION

BY THE BOARD:

Kenneth Barnes Dorris having filed Application 24857 for a permit to appropriate unappropriated water; a protest having been received; a public hearing having been held before the State Water Resources Control Board on April 7, 1978; 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 24857 is for a permit to appropriate 14.5 acre-feet per annum (afa) by storage to be collected from November 1 of each year to April 1 of the succeeding year for irrigation, domestic, stockwatering, recreational and fire protection purposes from two unnamed streams tributary to Shady Creek in Nevada County.

The four points of diversion are all located within the NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 20, T17N, R8E, MDB&M.

Applicant's Project

2. The applicant has constructed four small reservoirs the last of which was completed in 1967. Three of the reservoirs: Fred's Pond, 2 acre-feet (af); Lake David, 4 af; and Lake Zalya, 4.5 af, are located on one branch of the unnamed stream, while Lake Ina, 4 af; is located on another branch. The applicant has constructed a series of contour ditches to capture runoff and to

distribute water from the reservoirs, either by gravity or by pumping. A portion of the water is used to irrigate 38 acres. The applicant plans to expand that use to 60 acres of pasture, orchard and timber. The remainder is used for stockwatering, recreation and for fire protection.

3. The applicant can also receive water from the San Juan Ridge County Water District (District) as a beneficiary of the District's 1852 appropriative right. That right was confirmed by amended judgment (judgment) in San Juan Ridge County Water District v. Burda, et al., Nevada County Superior Court, No. 16318.

Protest and Protestant's Prior Rights

4. Application 24857 was protested by the District on the basis that Mr. Dorris was taking water without authorization from the District's Shady Creek Ditch to fill his reservoirs.

5. The District has an appropriative right as determined by the judgment which entitles the District to 155 acre-feet by storage each year in Pine Grove Reservoir and 2.3 cubic feet per second (cfs) by direct diversion from Shady Creek. The Shady Creek Ditch begins on Shady Creek at Ponderosa Dam and conveys water about four miles to Pine Grove Reservoir located on Little Shady Creek.

6. The Shady Creek Ditch collects winter sidehill runoff after storms and carries Shady Creek water in the late spring and summer. The ditch is used to supply users along its route (Dorris included) and other users below Pine Grove Reservoir in the French Corral area. The ditch is also used to supplement the storage in Pine Grove Reservoir if Little Shady Creek runoff is insufficient to fill the reservoir.

The judgment gives the District right of access to the ditch on the Dorris property and the right to regulate diversions from the ditch so that its prior rights can be protected.

7. The District stated that it would not oppose the application if it does not involve use of water from the Shady Creek Ditch (RT 43, 44). The applicant does not intend to use District water to fill the reservoirs. However, some former District water supplied to the applicant during the irrigation season will collect in the reservoirs as return flow and may be reused by the applicant. Further, the applicant agrees to a condition prohibiting use of District water to originally fill the reservoirs (RT 30-32, 56, 59). Clearly, the waters within the Shady Creek Ditch are not requested in the applicant's request for a permit to appropriate unappropriated water.

Existence of Unappropriated Water

8. Decision 1159 on the Yuba River found no unappropriated water during July and August. The proposed collection season is not within the restricted period.

9. Rainfall and stream flow records indicate that there is ample water during the winter and early spring months in normal years to fill the reservoirs. The applicant stated that the reservoirs have spilled every year except during the drought years of 1976 and 1977 (RT 19).

10. The applicant's intended uses of water are beneficial, and unappropriated water is available for diversion to storage for the period sought. Subject to appropriate conditions, such water can be used without causing substantial injury to any lawful users of water.

Environmental Considerations

11. This Board decision authorizes the following activity: collection and storage of water in four existing reservoirs for irrigation, stockwatering, domestic, recreation and fire protection purposes. See Applicant's Project above for more details. Such activity constitutes only a minor modification to land, and such activity is thereby exempt from the

provisions of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) in accordance with Section 15104, Chapter 3, Title 14, California Administrative Code.

ORDER

IT IS HEREBY ORDERED that Application 24857 be approved and that a permit be issued to the applicant subject to vested rights. The permit shall contain all applicable standard permit term numbers 6, 10, 11, 12 and 13,^{1/} in addition to the following limitations:

1. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed a total of 14.5 acre-feet per annum to be collected from November 1 of each year to April 1 of the succeeding year as follows:

- (a). 4 acre-feet per annum in Lake Ina,
- (b). 4 acre-feet per annum in Lake David,
- (c). 4.5 acre-feet per annum in Lake Zalya,
- (d). 2 acre-feet per annum in Fred's Pond.

2. Complete application of the water to the proposed use shall be made on or before December 1, 1983.

3. This permit does not authorize diversion of water to storage in any of the permittee's reservoirs from the San Juan Ridge County Water District canal known as the Shady Creek Ditch. The above restriction will not apply to return flows resulting from water that is diverted from said ditch during the irrigation season and applied directly to use under permittee's rights to water from said ditch that are held in trust by said District as set forth in judgment in San Juan Ridge County Water District v. Burda, et al., Nevada County

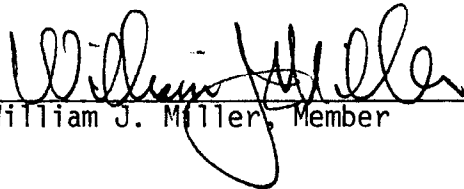
^{1/} A list of Standard Permit Terms is available upon request to the Board.

Superior Court, No. 16318. Nothing contained herein shall be construed as granting a right or recognizing a right to divert water from said ditch.


Dated: MAY 17 1979



W. Don Maughan, Chairman



William J. Miller, Member



L. L. Mitchell, Member



Carla M. Bard, Member

1-1-2020

