

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Applications 25310 and )  
25380 of )  
REID KAYS, ET AL. )  
Applicants )  
BLAIR R. ANDERSON, ET AL. )  
Protestants )

Decision: 1518  
Source : Unnamed Stream  
County : El Dorado County

DECISION APPROVING APPLICATIONS

BY THE BOARD:

Reid and Shirley A. Kays having filed Application 25310 and Jerry and Nancy Sevigny having been assigned ownership of Application 25380 for permits to appropriate unappropriated water; protests having been received; a public hearing having been held before the State Water Resources Control Board on March 28, 1978; applicants and protestants having appeared and presented evidence; the evidence at said hearing having been duly considered; the Board finds as follows:

Substance of the Applications

1. Application 25310 is for a permit to appropriate six acre-feet per annum (afa) for irrigation and domestic purposes and Application 25380 is for a permit to appropriate four afa for irrigation purposes. Both applications are for storage from November 1 to June 30 of each year from an unnamed stream tributary to Knickerbocker Creek thence North Fork American River in El Dorado County. The points of diversion are located within the NE $\frac{1}{4}$  of NW $\frac{1}{4}$  of Section 20, T12N, R9E, MDB&M.

Applicants' Projects

2. The applicants have constructed dams on the unnamed stream and propose to store water for later use. During the summer, water is to be purchased from Georgetown PUD when it is available.

### Protests

3. Three protests were filed against each application based on riparian rights and claiming that both projects were depriving them of their use of riparian water. The protestants use water for irrigation and stock-watering purposes from the same unnamed stream. All three have filed Statements of Water Diversion and Use.

### Availability of Unappropriated Water

4. An analysis of the watershed and precipitation data indicates that during the winter there is sufficient water to supply the requested appropriations. There is a spring upstream from the applicants' points of diversion, but the flow of the spring is either used on the Neigel Ranch, where it originates, or percolates into the ground before it leaves the ranch.

5. A post-hearing investigation revealed that during the period from about May 1 to November 1 there is generally no natural flow in the stream. Water flowing at that time of the year is return flow from irrigation water imported through a ditch owned by the Georgetown Divide Public Utility District and is not subject to riparian rights but may be available for appropriation. However, during the period from July 1 to November 1 such water is not available for new appropriation but is required to satisfy prior downstream appropriations on the American River.

### Environmental Considerations

6. The State Board has prepared a Negative Declaration in accordance with the California Environmental Quality Act (Public Resources Code, Section 2100, et seq.) and the State Guidelines, and the Board determines that there will be no significant effect on the environment as a result of the projects.

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Other Considerations

7. The records, documents and other data relied upon in determining the matter are: Applications 25310 and 25380, statement and all relevant information on file therewith, particularly the reports of field investigations on June 29 and August 17, 1978, and the Engineering Analysis of the record dated November 13, 1978. Also relied upon were Statements of Water Diversion and Use S9117, S9146, and S9208, and Board Decision 1098.

Conclusions

From the foregoing findings, the Board concludes that there is sufficient unappropriated water available to satisfy the proposed projects and that Applications 25310 and 25380 should be approved subject to appropriate terms and conditions.

ORDER

IT IS HEREBY ORDERED that Applications 25310 and 25380 be approved and that permits be issued to the applicants subject to vested rights. The permits shall contain all applicable standard permit terms (5i, 6, 10, 11, 12, and 13)\* in addition to the following conditions:

Application 25310

1. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed six acre-feet per annum to be collected from November 1 of each year to June 30 of the succeeding year.

\* The Board maintains a list of standard permit terms. Copies are available upon request.

Application 25380

2. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed four acre-feet per annum to be collected from November 1 of each year to June 30 of the succeeding year.

Both Applications

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

4. Permittee shall, when required by the State Water Resources Control Board, install and maintain an outlet pipe of adequate capacity in his dam as near as practicable to the bottom of the natural stream channel, or provide other means satisfactory to the State Water Resources Control Board, in order that water entering the reservoir which is not authorized for appropriation under this permit may be released.

Dated: JUL 19 1979

ABSENT

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W. Don Maughan, Chairman

L. L. Mitchell

L. L. Mitchell, Member

William J. Miller

William J. Miller, Vice Chairman

Carla Bard

Carla Bard, Member