

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 25365 of)
THOMAS M. CORR, ET AL.)
Applicants)
FRANK FREILER AND CLARENCE WALL)
Protestants)

Decision: 1524

Source: Unnamed Stream Tributary
Los Osos Creek

County: San Luis Obispo

DECISION APPROVING APPLICATION

BY THE BOARD:

Thomas M. Corr, Ann Freeman, H.E.M. Bumpus, Mrs. Del Bates, Robert E. White and John Lindemans, having filed Application 25365 for a permit to appropriate unappropriated water; protests having been received; an investigation under proceedings in lieu of hearing having been held on September 13, 1978, evidence received and investigation having been duly considered; the Board finds as follows:

Substance of Application

1. Application 25365 is for a permit to appropriate 5 acre-feet per annum by storage from December 1 to April 1 for recreational, fish and wildlife protection and enhancement. The point of diversion is within NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 17, T30S, R11E, MDB&M.

Applicants' Project

2. The project consists of an existing dam across a natural stream channel forming a pond about 6 feet deep and about 200 feet across. No water is diverted from the pond nor are there any other uses being made at the present time except for fish and wildlife enhancement.

Protests

3. Application 25365 was protested by Frank Freiler, Clarence Wall and the Department of Fish and Game. The Department of Fish and Game withdrew its protest after visiting the project site and after making the determination that the pond will be beneficial to fish and wildlife.

4. Protestants Freiler and Wall claim the pond impedes the flow and thus reduces the amount of water available to them under a riparian claim. They use the water during the summer for the irrigation of gardens and for stockwatering of domestic animals.

Availability of Unappropriated Water

5. The watershed above the applicants' point of diversion consists of about 160 acres of gently sloping terrain, which is partly urbanized. There are no streamflow records on the unnamed stream nor on Los Osos Creek. There are several springs along the stream channel providing flow throughout all months of normal years.

6. There are no known diversions of water from the stream system between December 1 and April 1 below the applicants' point of diversion. All parties acknowledge that there is unappropriated water available for applicants during the requested diversion season. The Board concurs in this conclusion.

7. The protestants' main concern is that the dam will continue to hold back streamflow after the end of the storage season. An appropriate permit term will require that streamflow be passed through the reservoir after the end of the storage collection season.

8. Applicants' intended use of water is beneficial.

Environmental Considerations

9. This decision authorizes collection of water behind a small dam already constructed. 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.

Record in this Matter

10. The records, documents and other data relied upon in determining the matter are: The file of Application 25365 and all relevant information on file therewith including the report, Investigation of Complaints on Little Los Osos Creek, dated February 29, 1978, and the Engineering Staff Analysis, dated September 22, 1978.

Conclusions

11. From the foregoing findings, the Board concludes that Application 25365 should be approved and that a permit should be issued to the applicant subject to the conditions set forth in the following order.

ORDER

IT IS HEREBY ORDERED that Applications 25365 be approved and that a permit be issued to the applicants subject to vested rights. The permit shall contain all applicable standard permit terms 5i, 6, 9, 10, 11, 12, 13, and 64^{1/} in addition to the following limitations:

^{1/} The Board maintains a list of standard permit terms. Copies of these are available upon request.

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

2. Permittee shall 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: August 16, 1979

/S/ W. DON MAUGHAN

W. Don Maughan, Chairman

/S/ L. L. MITCHELL

L. L. Mitchell, Member

/S/ WILLIAM J. MILLER

William J. Miller, Vice Chairman

/S/ CARLA M. BARD

Carla M. Bard, Member