

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 24604)

RICHARD D. AND KATHRYN J. FEENEY,)

Applicants)

ESTATE OF ARLINE S. JOHNSON)

Protestant)

Decision: 1537

Source: Unnamed Stream

County: Sonoma

DECISION APPROVING APPLICATION 24604 IN PART

BY THE BOARD:

Merilyn Coe having filed Application 24604 for a permit to appropriate unappropriated water; Richard D. and Kathryn J. Feeney (applicants) having succeeded to the interests of Merilyn Coe; protests having been received; a public hearing having been held before Board Member Adams on February 26, 1976; the applicants and a protestant having appeared and presented evidence; the evidence received into the record having been duly considered; the Board finds as follows:

Substance of Application

1. Application 24604 is for a permit to divert to storage 25 acre-feet per annum (afa) from November 1 to June 15 for irrigation use from an unnamed stream tributary to Russian River. The amount requested for diversion was reduced to the measured capacity of the reservoir of 19.4 afa at the hearing held in this matter. The point of diversion is located within SW $\frac{1}{4}$ of SW $\frac{1}{4}$, projected Section 5, T9N, R8W, MDB&M.

Applicants' Project

2. Applicants own a 70-acre vineyard in the Russian River watershed which is the proposed place of use. In 1974 the applicants' predecessor constructed an earthfill dam across the unnamed stream. The dam is about 25 feet high and has a crest length of about 150 feet. The dam has both a pipe spillway through the embankment at one side and an emergency spillway on the other side. No outlet pipe exists in the dam which can be used to drain the reservoir. The applicants use a well to supplement the natural inflow into the reservoir.

3. The applicants' vineyard presently includes only 65 acres of vines which are irrigated by drip irrigation. The applicants are not requesting any water for frost protection.

Protests

4. Arline S. Johnson and Bert Dudley filed protests against the approval of Application 24604. Protestant Dudley subsequently withdrew his protest and Protestant Arline S. Johnson is now deceased. The Estate of Arline S. Johnson, hereinafter referred to as "Protestant Johnson", continued the protest at the hearing. Protestant Johnson protested on the basis of injury to vested rights and also expressed a strong concern about the safety of the dam.

5. Protestant Johnson owns a ten-acre parcel immediately downstream from the applicants. The protestant operates a recreational summer camp from June through August and a trailer campground during the off-season from September of each year through May of the succeeding year.

6. Protestant Johnson uses water from the unnamed stream for stock-watering, irrigation, domestic use and fire protection. The water is diverted

from the stream from a well dug in the streambed. The protestant has two other wells also as a source of supply. In addition, another stream flows across the protestant's property which has sufficient flow to satisfy the protestant's needs.

Availability of Unappropriated Water

7. The unnamed stream which is the source under Application 24604 drains a watershed containing 60 acres above the point of diversion. The watershed above the protestant contains 70 acres. The elevation at the dam is 250 feet above mean sea level and the highest point in the watershed is 640 feet above mean sea level. A watershed this small will only produce runoff during and shortly after rainfall and then only when antecedent water conditions have saturated the soils.

8. No streamflow measurements or records of flow exist for this stream. However, a correlation between precipitation at nearby Healdsburg and the period of time necessary to fill the empty reservoir after its construction in 1974 indicates that the applicants' reservoir will fill in most years during the period from November 1 through March 31. Since this season of diversion is sufficient to satisfy the applicants' storage needs, the season of diversion should be limited to this period. Because Protestant Johnson has only a limited use of water during this period, the watershed supplies more than sufficient water for the protestant's needs in addition to the amount requested under this application. Testimony established that the stream ceases flowing by the end of May in most years.

9. The United States Geological Survey records of flow in the Russian River at Guerneville, which is downstream of most diversions, indicates that the monthly mean discharge for the 21-year period from 1940 through 1960 exceeded 4,000 cubic feet per second for the months of December, January, February and

March. The mean November flow for this period was 693 cfs. The total demand under prior rights is less than these amounts. Thus, unappropriated water is available during the diversion season to be approved for Application 24604 as against users on the Russian River.

10. The intended use is beneficial.

Environmental Considerations

11. The Board has prepared a Negative Declaration in accordance with the California Environmental Quality Act (Public Resources Code Section 21000, et seq.) and the State Guidelines. The Board determines that the project will not cause any significant adverse effect on the environment.

Public Interest

12. Protestant Johnson expressed concern about the safety of applicants' dam. The evidence at the hearing established that the site was selected and construction was started by an engineer with many years of experience with the United States Soil Conservation Service. A registered civil engineer supervised the completion of construction and two separate engineering firms evaluated the site and construction. Neither firm reported any basis for concern as to safety. The County of Sonoma exercises permit issuing authority over the project, and the County is apparently satisfied with the structure.

13. The applicants' dam has two spillways but does not have an outlet structure near the bottom of the dam as earlier indicated. So that stream flow required by the protestant during April and May can be passed by the dam, applicant should install a system or pump in his reservoir to bypass the inflow downstream at times during those two months when the water surface in the reservoir is below the spillway level.

Conclusions

14. From the foregoing findings the Board concludes that Application 24604 should be approved in part and that a permit should be issued to the applicants for diversion to storage during the period from November 1 to March 31, subject to the conditions set forth in the order following.

ORDER

IT IS HEREBY ORDERED that Application 24604 be approved in part and that a permit be issued subject to vested rights. The permit shall contain all applicable standard permit terms (5i, 6, 10, 11, 12, 13)* in addition to the following conditions:

1. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 19.4 acre-feet per annum to be collected from November 1 of each year to March 31 of the succeeding year.

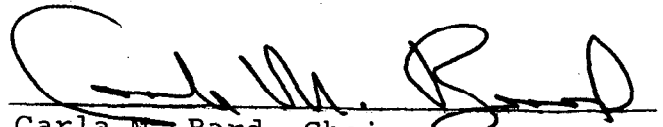
2. Complete application of the water to the proposed use shall be made on or before December 1, 1983.

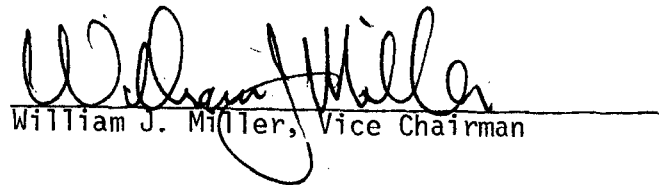
3. Permittee shall install and maintain an outlet pipe, a syphon, or a pump in his dam or reservoir, or provide other means satisfactory to the State Water Resources Control Board, in order that water entering the reservoir which is not authorized for appropriation under this permit may be released.

4. Permittee shall maintain a record of the amount of water pumped into the reservoir from wells. The record shall show by dates the number of hours pumped and the estimated discharge of the pump.

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

Dated: SEP 20 1979


Carla M. Bard, Chairwoman


William J. Miller, Vice Chairman

ABSENT

L. L. Mitchell, Member


W. Don Maughan, Member