

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 23879)

MIKE BELCASTRO)
Applicant)
ROBERT B. MILLS, ET AL.)
Protestants)

Decision: 1564
Source: Boles Creek
County: Siskiyou

DECISION APPROVING APPLICATION 23879

BY THE BOARD:

Mike Belcastro (applicant) having filed Application 23879 for a permit to appropriate unappropriated water; protests having been received; a public hearing having been held before Board Members, E. F. Dibble and Jean Auer on November 27, 1972; applicant and a protestant having appeared and presented evidence; the evidence received at the hearing having been duly considered; the Board finds as follows:

Substance of the Application

1. Application 23879 is for a permit to appropriate 0.22 cubic foot per second (cfs), with the maximum annual diversion limited to 66-acre feet, by direct diversion from Boles Creek, tributary to Shasta River, for domestic, irrigation and stockwatering uses in Siskiyou County. The season of diversion for irrigation is March 15 to October 15 and for domestic use and stockwatering is year-round. The point of diversion is in the NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 4, T41N, R5W, MDB&M.

Applicant's Project

2. The applicant has used 0.1 cfs for irrigation of 0.4 acres of permanent pasture under a prior decreed right. The water diverted under this application will allow the applicant to expand the place of use and to add other uses.

The applicant proposes to divert the water at the same point of diversion as his prior right. The water diverted under this application will be in addition to the water diverted under the prior right.

Background

3. On December 21, 1921, the Division of Water Rights, Department of Public Works, granted a petition of various water users from the Shasta River in Siskiyou County for a determination of rights to the use of water. Under the then existing procedure only rights to the use of water based on appropriation were determined. This proceeding, the Shasta River adjudication, resulted in the entry of a judgment and decree of the Superior Court of Siskiyou County on December 30, 1932, in Siskiyou County Superior Court No. 7035. A watermaster appointed by the State Department of Water Resources distributes water allocated by the decree.

Protests

4. The Montague Water Conservation District, Leland H. Domeyer, William A. Wellons, Norman E. and Mayme E. Fiock, Earl B. and Mildred O. Fiock, Shasta River Water Association and Robert B. Mills filed protests against the approval of Application 23879. The Fiock protests were withdrawn. The remaining protests alleged injury to prior rights determined in the Shasta River Adjudication. These protests all concern the availability of unappropriated water to supply the applicant and will be considered in that portion of the decision.

Availability of Unappropriated Water

5. The flows in the Upper Shasta River are measured at a gaging station located at Edgewood Bridge. Boles Creek is tributary to Upper Shasta River at a point upstream from Edgewood Bridge. Water is in excess of prior decreed rights downstream when the flow at the gage exceeds 10 cfs. Analysis of flows at the gage indicates that the flow in the Upper Shasta River is well in excess of 10 cfs nearly every day of the period October through June of each year. Moreover, the supply is sufficient during the months of July, August and September over fifty percent of the time. The Board concludes the unappropriated water is available to supply the applicant.

6. Protestant Mills is the only protestant who made an appearance at the hearing held in this matter. By letter dated December 12, 1972, Protestant Montague Water Conservation District asked that its written protest be considered even though it made no appearance at the hearing. Protestant Mills is concerned about those years when water is not available and about the procedures for reducing or eliminating the applicant's diversion under rights acquired under Application 23879. At the hearing Protestant Mills and the applicant agreed to the inclusion of a permit term authorizing the watermaster to regulate any diversion under Application 23879. The agreement was put in writing and constitutes withdrawal of the Mills protest. The Board concludes that the inclusion of said term will assist in the protection of prior rights and is appropriate.

7. The intended use is beneficial.

Environmental Considerations

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

Conclusion

9. From the foregoing findings, the Board concludes that Application 23879 should be approved and that a permit should be issued to the applicant subject to the conditions set forth in the order following:

ORDER

IT IS HEREBY ORDERED that Application 23879 be approved and that a permit be issued to the applicant subject to vested rights. The permit shall contain all applicable standard permit terms (6, 7, 10, 11, 12 and 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 0.22 cubic feet per second to be diverted from March 15 to October 15 for irrigation purposes and throughout the year as required for domestic and stockwatering. The maximum amount diverted under this permit shall not exceed 66 acre-feet per year.

2. Construction work shall be completed on or before December 1, 1983.

3. Complete application of the water to the proposed use shall be made on or before December 1, 1984.

4. The watermaster assigned to the Shasta River adjudication is authorized to determine when water is available for use under this permit and to regulate or terminate the diversion as required. At such time as the

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

watermaster is unable to perform this task, or if the Board decides on some other means of control, this term may be amended or deleted. Jurisdiction is reserved for this purpose.

5. No water shall be diverted under this permit until permittee has installed a measuring device satisfactory to the Board to facilitate regulation of the diversion in accordance with other terms of the permit. The measuring device shall be properly maintained by the permittee.

6. Rights under this permit are, and shall be, subject to existing rights determined by the Shasta River Adjudication, Superior Court, Siskiyou County No. 7035 insofar as said adjudicated rights are maintained and such other rights as may presently exist.

7. The issuance of this permit shall not be construed as placing a limitation on any decreed right to the waters of Boles Creek (Shasta River Watershed) held by the permittee.

Dated: July 17, 1980

/S/ CARLA M. BARD
Carla M. Bard, Chairwoman

/S/ L. L. MITCHELL
L. L. Mitchell, Member

/S/ WILLIAM J. MILLER
William J. Miller, Vice-Chairman

ABSENT
Jill B. Dunlap, Member

ABSENT
F. K. Aljibury, Member

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