

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Temporary Urgency)
Permit 16934 (Application 25494) of)
Joe W. Trowbridge to Appropriate)
from Mule Springs in Nevada County)

ORDER No. W.R. 77-10

Source: Mule Spring

County: Nevada

FINDINGS AND ORDER VALIDATING THE ISSUANCE
OF TEMPORARY URGENCY PERMIT 16934

Joe W. Trowbridge having filed Application 25494 for a temporary urgency permit to appropriate unappropriated water pursuant to Chapter 6.5, Part 2, Division 2 of the Water Code; the Board having consulted with the California Department of Fish and Game; Board Member Adams having concluded from the available information that the applicant was entitled to a temporary permit to appropriate water subject to review and validation by the Board as provided by Water Code Section 1425; the Board finds as follows:

Substance of the Application

1. Application 25494 is for a temporary permit to appropriate 1000 gallons per day by direct diversion from Mule Springs in Nevada County for the period from September 1, 1977 to October 1, 1977 for irrigation and 300 gallons per day by direct diversion from Mule Springs in Nevada County for the permit from September 1, 1977 to March 1, 1978 for stockwatering. The point of diversion is to be located in the SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 13 all in T16N, R10E, MDB&M.

Permittee's Project

2. Joe W. Trowbridge (permittee) is a caretaker for some property in Nevada County. He has a garden on a half-acre plot and approximately 150 head of various kinds of poultry. Permittee ordinarily obtains a water supply from a small reservoir constructed on an unnamed stream tributary to the Bear River. The permittee claims a pre-1914 right to the use of the waters of this unnamed stream. Because of the severe drought, the permittee's present water source is presently dry.

3. Permittee proposes to supplement his water supply by diverting water from Mule Springs which is tributary to an unnamed stream; thence Bear River; thence Feather River.⁽¹⁾ Because of the drought and the season of the year, there is no apparent hydraulic continuity between Mule Springs and the unnamed stream. Mule Springs consists of one developed spring with a spring box and several undeveloped springs. Permittee proposes to develop one of the undeveloped springs for his use.

Existence of Unappropriated Water

4. Mule Springs is the only water supply source for wildlife within its immediate vicinity. Although no measurements were made of the total flows of Mule Springs, the spring which permittee proposes to develop had a measured flow of 5.45 gallons per minute (7850 gallons per day) on September 17, 1977. Since permittee's total authorized diversion is only 1300 gallons per day, there is adequate water available for wildlife.

⁽¹⁾ Mule Springs is tributary to an unnamed stream different from the permittee's present source of water.

Effect of the Proposed Diversion or any Lawful User
of Water and the Rights of Downstream Users

5. As explained above, Mule Springs is not now in apparent hydraulic continuity with the unnamed stream. Therefore, the use of waters from Mule Springs cannot effect any lawful user of water or the rights of downstream users on the unnamed stream, Bear River, or Feather River. There is no known use of water from Mule Springs.

6. A Notice of the Application to be posted in accordance with the provisions of Chapter 6.5, Part 2, Division 2 of the Water Code was delivered to the permittee on September 17, 1977. No objections to the issuance of the subject permit were received within the period for objections.

The Permittee has an Urgent and Temporary
Need to Appropriate Water

7. As earlier indicated, the permittee has a garden and some poultry and his present water source was dry. Other alternatives for supplying his water such as tank truck and well drilling probably are not feasible because of the temporary nature of the need and the costs involved.

Effect of the Proposed Diversion on Fish,
Wildlife and Other Instream Beneficial Uses

8. The only environmental issue of concern here is the effect of the proposed diversion on wildlife. The U. S. Bureau of Land Management owns the property where the spring is located and informed the Board that they would not grant a right of way to the permittee unless the diversion were designed to only take that quantity of water in excess of the needs of wildlife. The Board consulted with personnel of the California Department of Fish and Game and they indicated that with those conditions they would not object to the issuance of the temporary permit.

Findings Concerning the California
Environmental Quality Act

9. The water year from October 1, 1975 to September 30, 1976 was the third driest year of record. The water year from October 1, 1976 to September 30, 1977 is now projected to be substantially below the driest year of record - 1924. The sequential occurrence of two such dry years is unprecedented and unexpected from the existing meteorological data.

10. The sudden and unexpected impact of the drought on the permittee's water supply constitutes an emergency as defined in Public Resources Code Section 21060.3 and the proposed project constitutes an action necessary to mitigate such emergency.

Other Public Interest Considerations

11. The U. S. Bureau of Land Management and their staff archeologists visited the location of the proposed diversion on September 15, 1977. The archeologists recommended against allowing the permittee to bury his spring box until the State Historical Preservation Officer has an opportunity to review the matter. The permittee may be able to divert the flow of the spring without the need of burying a spring box. Although a large quantity of water may be lost by this method, there is a large quantity of water in relation to permittee's demand and, therefore, he ought to be able to satisfy his need. No modification of the permit is required to assure protection of any archeological resources in the area of Mule Springs, because Permit Term 14 requires the permittee to comply with all conditions of the right of access granted by the U. S. Bureau of Land Management.

Action by Board Member Adams

12. On September 2, 1977, the staff explained the foregoing situation to Board Member Adams and recommended approval of the attached temporary permit. The staff also recommended the inclusion of specially drafted Permit Terms 5, 14, and 15 as appropriate to be consistent with the condition imposed by the U. S. Bureau of Land Management. Board Member Adams concurred with the staff recommendation and on September 2, 1977 he authorized the issuance of a Temporary Permit. On the same date, Temporary Permit 16934 was issued.

NOW, THEREFORE, IT IS ORDERED THAT:

1. The Board following the review of the record validates the issuance of Temporary Permit 16934.

NOW, THEREFORE, IT IS FURTHER ORDERED THAT:

1. Pursuant to Section 2713(c), Title 23, California Administrative Code, the Executive Director shall file a Notice of Exemption with the Secretary for the Resources Agency.

Dated: September 22, 1977

WE CONCUR:

W W Adams
W. W. Adams, Member

John E. Bryson
John E. Bryson, Chairman

W. Don Maughan
W. Don Maughan, Vice Chairman