

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 19651
of Robert B. and Joan R. Mearns
to Appropriate from an Unnamed Stream
Tributary to Cosumnes River in
Sacramento County

Decision D 1062

ADOPTED FEB 15 '62

DECISION APPROVING APPLICATION IN PART

Robert B. and Joan R. Mearns having filed Application 19651 for a permit to appropriate unappropriated water; a protest having been received; the applicants and protestant having stipulated to proceedings in lieu of hearing as provided for by Title 23, California Administrative Code, Section 737; an investigation having been made by the State Water Rights pursuant to said stipulation; the Board, having considered all available information and now being fully advised in the premises, finds as follows:

1. Application 19651 is for a permit to appropriate 2.0 cubic feet per second (cfs) by direct diversion from April 1 to October 1 of each year for irrigation purposes from an unnamed stream tributary to Cosumnes River in Sacramento County. The point of diversion is to be located within the SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 6, T7N, R8E, MDB&M.

2. Most of the water flowing in the unnamed stream during the summer months is return flow of water diverted from

the Cosumnes River for the irrigation of lands served by the Cosumnes Irrigation Association. The flow is extremely erratic, depending upon upstream irrigation operations. On June 29, 1961, the flow at the applicants' point of diversion located just above the confluence of the unnamed stream and Cosumnes River, was estimated to be 0.1 cubic foot per second.

3. Protestant E. Clemens Horst Company diverts from Cosumnes River approximately 5 miles below the unnamed stream-Cosumnes River junction, under claimed riparian and pre-1914 appropriative rights.

4. Water surplus to the requirements of riparian owners and prior appropriators exists in the Cosumnes River between April 1 and July 1 in practically all years but not during the remainder of the irrigation season.

5. There is no unappropriated water available to supply applicants during the period from July 1 to October 1. There is unappropriated water available to supply them during the period from April 1 to July 1 and subject to suitable conditions, such water may be diverted and used during this period without causing substantial injury to any lawful user of water. This limitation in season does not affect whatever riparian right, if any, applicants may have to the use of water in the source.

6. The intended use is beneficial.

From the foregoing findings, the Board concludes that Application 19651 should be approved in part and that a permit should be issued to the applicants subject to the limitations and conditions set forth in the following Order.

The records, documents, and other data relied upon in determining the matter are: Applications 19651, 18027, 18028, and 18029 and all relevant information on file therewith, particularly the report of the field investigation made June 29, 1961, U. S. Geological Survey, Sloughouse and Carbondale Quadrangle, 7½-minute series, dated 1955, and U. S. Geological Survey Water Supply Papers, Part 11, Pacific Slope Basins in California.

IT IS HEREBY ORDERED that Application 19651 be, and the same is, approved in part, and that a permit be issued to the applicants subject to vested rights and to the following limitations and conditions:

1. The amount of water to be appropriated shall be limited to the amount which can be beneficially used and shall not exceed 2.0 cubic feet per second by direct diversion to be diverted between about April 1 and about July 1 of each year. The equivalent of such continuous flow allowance for any thirty-day period may be diverted in a shorter time if there be no interference with vested rights.

2. The maximum amount herein stated may be reduced in the license if investigation warrants.

3. Actual construction work shall begin on or before September 1, 1962, and thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked.

4. Said construction work shall be completed on or before December 1, 1964.

5. Complete application of the water to the proposed use shall be made on or before December 1, 1965.

6. Progress reports shall be filed promptly by permittees on forms which will be provided annually by the State Water Rights Board until license is issued.

7. All rights and privileges under this permit, including method of diversion, method of use, and quantity of water diverted are subject to the continuing authority of the State Water Rights Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

8. Permittees shall allow representatives of the State Water Rights Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.

Adopted as the decision and order of the State Water Rights Board at a meeting duly called and held at Sacramento, California, on the day of , 1962.

Kent Silverthorne, Chairman

Ralph J. McGill, Member

W. A. Alexander, Member