

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 19439)
of Eda Girolo Braren and Henry Caletti)
to Appropriate from an Unnamed Stream)
Tributary to Nicasio Creek in)
Marin County)

Decision D 1074

ADOPTED MAR 15 '62

DECISION APPROVING APPLICATION

Eda Girolo Braren and Henry Caletti having filed Application 19439 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 Board pursuant to said stipulation; the Board, having considered all available information and now being fully advised in the premises, finds as follows:

1. Application 19439 is for a permit to appropriate 23 acre-feet per annum by storage from November 1 of each year to April 30 of the succeeding year for domestic, recreational, and stockwatering purposes from an unnamed stream tributary to Nicasio Creek in Marin County. The point of diversion is to be located within the SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 24, T3N, R8W, MDB&M.

2. The applicants' point of diversion is at an existing dam built in cooperation with the U. S. Soil Conservation Service and located on an unnamed stream at a point approximately 1.5 miles above the junction of the unnamed stream with Nicasio Creek. The reservoir, which has a capacity of 23 acre-feet, was almost full on March 14, 1961, following an extremely dry season.

3. Protestant Marin Municipal Water District holds Permit 12800 to appropriate 31 cubic feet per second by direct diversion, year-round, and 29,000 acre-feet per annum by storage to be collected from about October 1 of each year to about June 30 of the succeeding year from Nicasio Creek at its Nicasio Dam. This dam, located approximately 5 miles below the applicants' point of diversion and now under construction, will have a capacity of 22,400 acre-feet which is to be increased to 29,000 acre-feet at some indefinite time in the future. The protestant contends that the applicants' project will reduce the runoff now available and necessary to satisfy its rights under Permit 12800.

4. Records of the annual runoff passing the USGS gaging station "Arroyo Nicasio near Point Reyes" located approximately 0.5 mile below the protestant's point of diversion, for the period of record (1954-1959), show that water in excess of the protestant's entitlement under Permit 12800 occurs in some years. There are no known users of water between the applicants' point of diversion and this gaging station.

5. There is unappropriated water available at times to supply the applicants, and subject to suitable conditions such water may be diverted and used in the manner proposed during those times without causing substantial injury to any lawful user of water.

6. The intended use is beneficial.

7. In order that the prior rights of the protestant under Permit 12800 be protected during years when there is insufficient water to supply both the applicants and protestant, the permit to be issued on Application 19439 should contain a special term requiring the permittee to release impounded water for the benefit of the protestant should the protestant's reservoir fail to fill during any season extending from October 1 to June 30.

From the foregoing findings, the Board concludes that Application 19439 should be approved 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: Application 19439 and all relevant information on file therewith, particularly the report of the field investigation made March 14, 1961, Permit 12800 (Application 17317); United States Geological Survey Water Supply Papers, "Surface Water Supply of the United States, Part 11, Pacific Slope Basins in California"; United States Weather Bureau, "Climatological Data, California," monthly and annual summaries; United States Geological Survey quadrangles San Geronimo and Petaluma, California, both dated 1954, 7½-minute and 15-minute series, respectively.

IT IS HEREBY ORDERED that Application 19439 be, and the same is, approved, 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 23 acre-feet per annum by storage to be collected from about November 1 of each year to about April 30 of the succeeding year.

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

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

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

5. 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.

6. This permit is subject to the prior rights of Marin Municipal Water District under Permit 12800 (Application 17317) or any license which may be subsequently issued thereon. Should Nicasio Reservoir not fill during any season extending from October 1 of each year to June 30 of the succeeding year, permittees

shall, upon demand of the Marin Municipal Water District, release from their reservoir into the natural stream channel, water impounded during the storage season under this permit.

Provided, however, that said release by permittees is actually required for beneficial use by Marin Municipal Water District, and provided further, that any water released from Nicasio Dam by Marin Municipal Water District during the period October 1 of each year to June 30 of the succeeding year for other than municipal purposes, downstream prior rights, or preservation of fish life, shall be considered surplus regardless of the level of Nicasio Reservoir at the time of said release, and the permittees shall be entitled to retain an equivalent amount of water for storage even though Nicasio Reservoir does not fill.

7. Permittees shall install and maintain an outlet pipe of adequate capacity in their dam as near as practicable to the bottom of the natural stream channel, or provide other means satisfactory to the State Water Rights Board, in order that water entering the reservoir or collected in the reservoir during and after the current storage season may be released into the downstream channel to the extent necessary to satisfy the downstream prior rights and/or to the extent that appropriation of said water is not authorized under this permit.

8. This permit does not authorize collection of water to storage during the period from about May 1 to about October 31 of each season to offset evaporation and seepage losses or for any other purpose.

9. 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