

STATE OF CALIFORNIA  
STATE WATER RIGHTS BOARD

In the Matter of Application 5644A )  
of Georgetown Divide Public Utility )  
District to appropriate from Pilot )  
Creek in El Dorado County )

Decision D 1013

**ADOPTED MAY 25 '61**

DECISION APPROVING APPLICATION IN PART

Application 5644A designates the portion of Application 5644, filed July 30, 1927, by the Department of Finance, that was assigned to the Georgetown Public Utility District (hereinafter referred to as the applicant) on February 27, 1958. The partial assignment was made upon condition that the applicant obtain authorization from the State Water Rights Board (hereinafter referred to as the Board) to amend the portion of Application 5644 assigned to it to change the point of diversion of water to storage from Gerle Creek to a point on Pilot Creek and to change the point of diversion of water to be appropriated by direct diversion from the Rubicon River to a point on Pilot Creek. The application was so amended July 20, 1960, by permission of the Board.

Protests having been received to the application, a public hearing was held, after due notice to the applicant and protestants, before the Board on August 31, 1960, at Sacramento, California, Chairman Kent Silverthorne presiding. The applicant and one of the protestants, San Juan Suburban Water District, appeared, evidence was received and the Board, having considered same and now being fully informed in the premises, finds as follows:

1. Application 5644A, as amended, is for a permit to appropriate 100 cubic feet per second (cfs) by direct diversion year-round and 20,000 acre-feet per annum by storage year-round for irrigation, domestic, and stockwatering purposes from Pilot Creek tributary of Middle Fork American River in El Dorado County.

2. Protests were filed by State of California Department of Fish and Game and certain users holding permits and licenses and claiming riparian and pre-1914 rights to the flows of the Middle Fork of the American River.

3. The applicant now holds Permits 11304 and 11305 to appropriate water for the project described in Application 5644A, the principal feature of which is the proposed Stumpy Meadows Reservoir. Application 5644A was filed and permit is requested for the sole purpose of obtaining the 1927 priority date of filing of Application 5644.

4. Protestant San Juan Suburban Water District contends that the issuance of a permit to the applicant with a priority date of July 30, 1927, insofar as it relates to the 50 cubic feet per second transferred from the Rubicon River to Pilot Creek, would interfere with its right to divert water by authority of Permit 4009 which has a priority date of February 1, 1928. The matter of the amendment of the application to change the points of diversion was not in issue at the hearing, the Board having previously approved the same. However, the records of the flows of the two streams show that substantially less water is available to the applicant at its new point of diversion on Pilot Creek than would

have been available at its proposed point of diversion on the Rubicon River; therefore, no harm could result to the protestant by this change.

5. Board's Decision D 893, May 8, 1958, which approved Applications 12421 and 16212 and ordered issuance of Permits 11304 and 11305 to applicant found unappropriated water to exist in the American River to satisfy the applications from November 1 of each year to August 1 of the succeeding year but found that no unappropriated water exists during the months of August, September, and October.

6. Studies of the flows and demands upon the American River upon which Board's Decision D 893 was based were admitted into evidence at the hearing on Application 5644A. No evidence was presented at the hearing of any change in conditions since the Board's Decision D 893 which would affect the availability of unappropriated water in the American River at the present time. The applicant agreed that the same permit terms and conditions contained in Permits 11304 and 11305, including those concerning fish life, be included in any permit to be issued on Application 5644A; whereupon, protestant Department of Fish and Game withdrew its protest.

7. Based upon the record before the Board in this proceeding, the Board finds that unappropriated water is available to supply the applicant from November 1 of each year to August 1 of the succeeding year. Subject to the conditions contained in the following order, such water may be diverted and used in the manner proposed without causing substantial injury to any lawful

user of water. The appropriation proposed by applicant is beneficial and in the public interest.

From the foregoing findings the Board concludes that Application 5644A should be approved in part and that a permit be issued to the applicant subject to the limitations and conditions set forth in the following order.

IT IS HEREBY ORDERED that Application 5644A be, and the same is, approved, and that a permit be issued to the applicant 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 100 cubic feet per second by direct diversion to be diverted from about November 1 of each year to about August 1 of the succeeding year and 20,000 acre-feet per annum by storage to be collected from about November 1 of each year to about August 1 of the succeeding year.

2. The total amount of water to be diverted from Pilot Creek under this permit and Permits 11304 (Application 16212) and 11305 (Application 12421) shall not exceed 100 cubic feet per second by direct diversion and 20,000 acre-feet per annum by storage.

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

4. Actual construction work shall begin on or before September 1, 1961, and shall thereafter be prosecuted with

reasonable diligence and if not so commenced and prosecuted this permit may be revoked.

5. Construction work shall be completed on or before December 1, 1965.

6. Complete application of the water to the proposed uses shall be made on or before December 1, 1980.

7. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the State Water Rights Board.

8. Permittee shall maintain a daily record of inflow into and outflow from the reservoir. It shall also maintain a daily record of volumes in storage and water surface elevation of the reservoir. It shall provide and maintain such measuring facilities as may be necessary for these purposes. It shall make said records of inflow, outflow, and fluctuations of volume in storage and water surface elevations available to the State Water Rights Board and shall allow authorized representatives of that Board reasonable access to its project works and properties for the purpose of securing supplemental information.

9. Permittee shall bypass down the natural stream channel for the purpose of maintaining fish life such flows as are required by Permits 11304 and 11305, which are specifically set forth in Fish and Game Exhibit No. 15, admitted into evidence at the hearing of Applications 12421 and 16212.

10. All rights and privileges under this permit including method of diversion, method of use, and quality of water diverted

are subject to the continuing authority of the State Water Rights Board in accordance with law and in the interest of public welfare to prevent waste, unreasonable use, unreasonable methods of use, or unreasonable method of diversion of said waters.

11. In accordance with Water Code Section 1393 permittee shall clear the site of the proposed reservoir of all structures, trees, and vegetation which will interfere with the use of the reservoir for water storage and recreational purposes.

12. This permit is subject to compliance with Water Code Section 10504.5(a).

IT IS FURTHER ORDERED that, except to the extent expressly approved, Application 5644A is hereby denied.

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

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Kent Silverthorne, Chairman

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Ralph J. McGill, Member

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W. A. Alexander, Member