

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of
Applications 20507 and 20608
of Felix R. and Theodora L. Garnsey
and Richard F. and Rosabel L. Matthews,
Respectively, to Appropriate from
Two Unnamed Tributaries, Cottonwood
Creek and DeLuz Creek in San Diego
County

Decision D 1213

ADOPTED FEB 17 1965

DECISION APPROVING APPLICATIONS

Felix R. and Theodora L. Garnsey and Richard F. and Rosabel L. Matthews having filed Applications 20507 and 20608, respectively, for permits to appropriate unappropriated water; United States of America, Department of the Navy, having filed a statement with the Board in which it opposed the issuance of any permits covering use of the water of the Santa Margarita River System unless made subordinate to federal uses; a public hearing having been held before the State Water Rights Board on these applications and Applications 20621 and 21741 in San Diego, California, conducted by Board Members Kent Silverthorne, Chairman, presiding, W. A. Alexander, and Ralph J. McGill; applicants and the United States having appeared and presented evidence; the evidence received at the hearing having been duly considered, the Board finds as follows:

1. Application 20507 is for a permit to appropriate 45 acre-feet by storage from November 1 of each year to April 30 of the succeeding year for irrigation, recreational, and fish culture purposes from two unnamed tributaries and Cottonwood Creek in San Diego County. The points of diversion are located within the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$, the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$, and the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 30, T8S, R4W, SBB&M.

2. The project described by Application 20507 consists of two reservoirs on tributaries of Cottonwood Creek (No. 2 and No. 3) which are to have capacities of 18 and 27 acre-feet, respectively. Construction work on Reservoir No. 2 has been completed. These reservoirs are to be operated in conjunction with a reservoir on Cottonwood Creek (No. 1) for which the applicants hold Permit 8166 (Application 13505). Water is to be pumped from Reservoir No. 1 by a 250-gallon-per-minute pump to off-stream storage in Reservoirs No. 2 and No. 3 and later released back into Reservoir No. 1, from where it is to be released to flow through a conduit to a regulatory reservoir. The system is used to irrigate approximately 80 acres of diversified crops.

3. Application 20608 is for a permit to appropriate 100 acre-feet by storage from November 1 of each year to May 1 of the succeeding year for irrigation and domestic purposes from DeLuz Creek in San Diego County. The point of diversion is located within the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 20, T8S, R4W, SBB&M.

4. The project described by Application 20608 consists of a reservoir on DeLuz Creek and three off-stream storage reservoirs,

all of which have been constructed and are in use. Water is pumped from DeLuz Creek to off-stream storage by a pump with a maximum capacity of 1,000 gallons per minute. The total capacity of these four reservoirs is approximately 50 acre-feet. The applicants propose to increase the total storage capacity to 100 acre-feet but have not decided which of the storage reservoirs will be enlarged. Water is used at two homes with approximately $2\frac{1}{2}$ acres of gardens, lawns, and shrubs; for approximately 12 head of livestock, and for the irrigation of approximately 70 acres of avocado and citrus orchards and pasture.

5. Cottonwood Creek and DeLuz Creek are tributary to the Santa Margarita River. The records of Isadora Gaging Station located approximately $2\frac{1}{2}$ miles above the mouth of the Santa Margarita River for the period of record, 1923 through 1963, show that in most years water wastes to the sea in substantial quantities (USA Exh. 4).

6. The United States has filed Application 21471 for a permit to store water in a reservoir to be constructed on the Santa Margarita River just below the DeLuz Creek confluence, and to store water underground by means of a system of spreading works downstream from the surface reservoir. It has advised the Board that it does not protest the granting of permits to these applicants but urges that the permits be made subordinate to the appropriations of the United States. However, it is conceded that the effect of the applicants' projects on the appropriations of the United States

would be negligible (RT 568 and Opening Brief of United States, p. 3). Sufficient cause has not been shown to upset the normal priority of Applications 20507 and 20608 based on their date of filing.

7. There is unappropriated water available to supply the applicants.

From the foregoing findings, the Board concludes that Applications 20507 and 20608 should be approved, and that permits should be issued to the applicants, subject to the limitations and conditions set forth in the following Order.

ORDER

IT IS HEREBY ORDERED that Applications 20507 and 20608 be, and they are, approved, and that permits be issued to the applicants, subject to vested rights and to the following limitations and conditions:

1a. The water appropriated under the permit to be issued pursuant to Application 20507 shall be limited to the quantity which can be beneficially used and shall not exceed 18 acre-feet per annum by storage in Reservoir No. 2 and 27 acre-feet per annum by storage in Reservoir No. 3, for a total of 45 acre-feet per annum, to be collected from about November 1 of each year to about April 30 of the succeeding year. The maximum rate of diversion from Cottonwood Creek to off-stream storage in Reservoirs No. 2 and No. 3 shall not exceed 250 gallons per minute.

b. The water appropriated under the permit to be issued pursuant to Application 20608 shall be limited to the quantity

which can be beneficially used and shall not exceed 100 acre-feet per annum by storage to be collected from about November 1 of each year to about April 30 of the succeeding year. The maximum rate of diversion to off-stream storage shall not exceed 1,000 gallons per minute.

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

3. Actual construction work (Application 20608) shall begin on or before June 1, 1965, and shall 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, 1967.

5. Complete application of the water to the proposed use shall be made on or before December 1, 1968.

6. 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.

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. Permittee 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.

9. 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.

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 , 1965.

/s/ Kent Silverthorne
Kent Silverthorne, Chairman

/s/ Ralph J. McGill
Ralph J. McGill, Member

/s/ W. A. Alexander
W. A. Alexander, Member