

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 21615 of
J. Carroll and Elvira R. Mahoney to
Appropriate from an Unnamed Mine Shaft
in Tuolumne County

Decision D 1233

ADOPTED AUG 25 1965

DECISION APPROVING APPLICATION

Application 21615 of J. Carroll and Elvira R. Mahoney having been filed; protests to the application having been received; a public hearing having been held before the State Water Rights Board in Sonora, California, on March 9, 1965, conducted by Chairman Kent Silverthorne and Member W. A. Alexander; applicants and protestants having appeared and presented evidence; the evidence received at the hearing having been duly considered; the Board finds as follows:

1. Application 21615 is for a permit to appropriate 0.03 cubic foot per second (cfs) by direct diversion, year-round, for domestic purposes from an unnamed mine shaft in Tuolumne County. The point of diversion is to be located within the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 14, T2N, R14E, MDB&M.

2. The unnamed mine shaft is located in a ravine near Columbia Historic State Park approximately 7/8 of a

mile northeast of Mormon Creek. The applicants propose to construct a concrete sump in the mine shaft and pump water from the shaft for domestic use at their home and at two homes to be constructed.

3. The principal source of supply of the water in the mine shaft is operational spill and waste water from a Pacific Gas and Electric Company ditch and what apparently is seepage from the ditch that appears on the surface of the ground near the shaft as a spring. Surface inflow entering the shaft reaches the ravine only during periods of heavy rain.

4. Protestants Engler, who divert from Mormon Creek approximately one mile from the mine shaft, hold Permit 11689 (Application 17554) for 35 acre-feet per annum by storage and a pre-1914 right, confirmed by court decree, to 20 miner's inches by direct diversion, year-round.

Protestant Thrower claims 139 miner's inches by direct diversion from Mormon Creek under pre-1914 and adjudicated rights. He diverts approximately one mile below the protestants Engler.

Protestants Drury and Jessen did not appear at the hearing. Therefore, in accordance with Section 731 of the Board's regulations, the Board assumes that these protestants have abandoned their interest in the application.

5. The main concern of protestants Engler and Thrower is that the applicants, by pumping from the mine shaft, may interfere with ground water reaching Mormon Creek.

They have no objection to the approval of the application if the permit contains a term limiting the water to be appropriated to water from the Pacific Gas and Electric Company ditch. The suggested term is justified, especially in view of applicants' testimony that their application is limited to excess water of the Pacific Gas and Electric Company ditch (RT 15).

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

7. The intended use is beneficial.

From the foregoing findings, the Board concludes that Application 21615 should be approved and that a permit should be issued to the applicants, subject to the conditions and limitations set forth in the following Order.

ORDER

IT IS HEREBY ORDERED that Application 21615 be, and it is, approved, and that a permit be issued to the applicants subject to vested rights and to the following limitations and conditions:

1. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 0.03 cubic foot per second by direct diversion to be diverted year-round.

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

3. Actual construction work shall begin on or before June 1, 1966, and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked.

4. Construction work shall be completed on or before December 1, 1968.

5. Complete application of the water to the proposed use shall be made on or before December 1, 1969.

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. The water appropriated under this permit shall be limited to the water wasting from the Pacific Gas and

Electric Company's ditch into the unnamed shaft described in this approved application.

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