

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Applications 17123 and)
17962 of San Luis Obispo County Flood)
Control and Water Conservation District)
to Appropriate from Paso Robles Creek)
in San Luis Obispo County)

Decision D 1011

ADOPTED MAY 25 '61

DECISION APPROVING APPLICATIONS

Application 17123 was filed June 12, 1956, by the City of Paso Robles for a permit to appropriate 20,000 acre-feet per annum for municipal purposes. The water is to be collected to storage between October 1 and the succeeding May 1 at a point on Paso Robles Creek about two miles west of its junction with Salinas River near Templeton in San Luis Obispo County. Application 17962 was subsequently filed by the City of Paso Robles for an additional 20,775 acre-feet per annum to be collected to storage during the same season for the same purpose in the same reservoir, to be known as Paso Robles Reservoir. In July of 1960 notice was received of the assignment of both applications to the San Luis Obispo County Flood Control and Water Conservation District.

Protests to both applications having been filed, a public hearing was held in the City of San Luis Obispo on October 25, 1960, before Board Members W. P. Rowe (Acting Chairman) and Ralph McGill.

At the time of the hearing there were pending petitions to change the purpose of use proposed for each application from municipal to a combination of municipal, industrial, irrigation, domestic, stockwatering, and incidental recreation.

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At the October 25 hearing, the applicant stated that it intended to file with respect to each application a petition to describe more accurately the proposed point of diversion and a petition to change the place of use. These petitions have been filed.

The proposed point of diversion of each application is clarified as being within the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of projected Section 36, Township 27 South, Range 11 East, Mount Diablo Base and Meridian. This is the same projected section within which each application as filed describes its proposed point of diversion.

With respect to the place of use, the District now proposes to coordinate its operation of Paso Robles Reservoir with a distribution of water it is to receive from Nacimiento Reservoir on Nacimiento River, and the petition seeks authority to combine the net acreage to be irrigated from each project within the same gross area consisting of all of the District's Zone 2 instead of just a part of Zone 2 adjacent to the Salinas River.

The District's proposed projects and operations are for the purpose of making water available to meet multiple and growing requirements within district boundaries. As required by Section 1702 of the Water Code, the Board finds that the changes of purpose of use, place of use, and point of diversion, as requested by petitions concerning Applications 17123 and 17962, will not operate to the injury of any legal user of the water involved. Accordingly, an order will be entered approving each of said petitions.

The monthly runoff of Paso Robles Creek at the dam site has been estimated by the applicant on the basis of a study period

extending from the water year 1935-1936 through the water year 1950-1951. The study indicates that the average seasonal runoff is 27,000 acre-feet per annum and that 97 per cent of this runoff occurs during the period November 1 of each year through April 30 of the succeeding year. The minimum runoff was estimated to be 4,410 acre-feet during the 1938-1939 water year, and the maximum runoff was estimated to be 79,300 acre-feet during the 1940-1941 water year. The studies show that 13,600 acre-feet per annum of gross safe seasonal yield can be expected from Paso Robles Reservoir. It is proposed to operate the project on the basis of that annual safe yield by cyclic storage from wet years to dry years.

The protest of Jack Greer is based on anticipated damage to an appropriative right and to lands which will be flooded by the proposed Paso Robles Reservoir. Since damages to property of this nature are compensable by court action, this protest should be and is dismissed.

The only other protestants to appear at the hearing were W. E. Gordon, Harold Edelman, and Lowell Adams, each interested in the protection of rights and usage of the waters of Paso Robles Creek or of ground waters fed by the creek in the area somewhat downstream from the proposed dam site but upstream from Templeton. None offered evidence or participated in the hearing. To insure protection of vested rights and to prevent unintentional and unauthorized storage after May 1 and prior to September 30 of each year, the District proposes to install and operate gaging stations supplementary to existing stations to measure the inflow and outflow of Paso Robles Reservoir. Since substantially all the summer inflow

to the proposed reservoir site is from Jack Creek, Paso Robles Creek, and Santa Rita Creek, it was agreed that gaging stations on these three tributaries would be sufficient to indicate inflow to the reservoir. A gaging station is to be installed below the dam to measure outflow into the natural channel of Paso Robles Creek, and water levels of the reservoir are to be measured. These measurements will afford information of a public nature to help insure that vested rights of protestants and others similarly situated are protected. On that basis, with supplementary operational studies and with appropriate conditions in the permits, these protests may be disregarded.

The Monterey County Flood Control and Water Conservation District (hereinafter called the Monterey District) filed protests to each application predicated on anticipated diminution of natural ground water recharge along the Salinas River within the Monterey District's own Zone 2. On October 19, 1959, a written agreement was entered into by Monterey District and applicant San Luis Obispo District. Copy of said agreement is in the files of Application 16761 (Staff Exh. 1). This is an application by the Monterey District to construct San Antonio Reservoir on San Antonio River. Permit has been issued by the Board. Pursuant to said agreement, the Monterey District is to build San Antonio Reservoir and to sell the applicant increasing quantities of water ranging up to 17,500 acre-feet per annum from Nacimiento Reservoir. In default of timely construction by the Monterey District, the San Antonio permit is to revert to the San Luis Obispo District. One provision of the agreement calls for the withdrawal of the Monterey District's

protests to Application 17123 and 17962, and another provision waives possible objections to proposed changes of purpose and place of use, as discussed above.

The San Luis Obispo District's Exh. 11Y introduced in evidence in connection with Application 16761 (Staff Exh. 1), shows the 29-year discharge of the Salinas River near Spreckels from 1929-1930 through 1957-1958 to average about 340,000 acre-feet per annum. The quantities of unused water of the Salinas River which waste into the Pacific Ocean about two years out of every three are many times the amount required to operate Paso Robles Reservoir.

The evidence indicates and the Board finds that there is unappropriated water available in most years to supply the applicant and, subject to suitable conditions, such water may be diverted and used in the manner proposed without causing substantial injury to any lawful user of water. The intended use is beneficial.

Sufficient information is not available to finally determine the terms and conditions which will reasonably protect downstream vested rights without resulting in waste of water. A period of actual operation not to exceed 15 years will be necessary to secure the required information. Jurisdiction shall be reserved for such purpose.

IT IS HEREBY ORDERED that the petitions to change the point of diversion, the place of use, and the purpose of use as described in Applications 17123 and 17962 be, and the same are, hereby approved, allowing the following changes with respect to each of said applications:

1. The point of diversion is to be located within Rancho Paso de Robles 4,000 feet south and 2,750 feet west from the northeast corner of projected Section 36, T27S, R11E, MDB&M, being within the NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of said projected Section 36.

2. The place of use is a net area of 3,100 acres of urban and suburban lands and 27,200 acres of irrigated agricultural lands within a gross area of 1,040,590 acres consisting of all of Zone 2 of San Luis Obispo Flood Control and Water Conservation District.

3. Paragraph 3 of Applications 17123 and 17962 is amended to read:

"The use to which the water is to be applied is municipal, industrial, irrigation, domestic, stockwatering and incidental recreation."

IT IS FURTHER ORDERED that Applications 17123 and 17962 as amended be, and the same are, approved, and that permits be issued to the applicant subject to vested rights and to the following limitations and conditions:

1. The amount of water to be appropriated under permit issued pursuant to Application 17123 shall be limited to the amount which can be beneficially used and shall not exceed 20,000 acre-feet per annum by storage to be collected between about October 1 of each year and about May 1 of the succeeding year.

2. The amount of water to be appropriated under permit issued pursuant to Application 17962 shall be limited to the amount which can be beneficially used and shall not exceed 20,775 acre-feet

per annum by storage to be collected between about October 1 of each year and about May 1 of the succeeding year.

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

4. A separate application for approval of plans and specifications for the dam to be built in connection with Applications 17123 and 17962 shall be filed with and approved by the Department of Water Resources prior to commencement of construction of said dam.

5. Permittee shall, at its own expense, make or cause to be made, suitable field investigations, measurements, and studies to determine inflow to Paso Robles Reservoir, volume of water in storage, timing and rate of release of water into the natural channel of Paso Robles Creek below Paso Robles Dam to supply the vested rights of downstream users; and shall install, maintain, and operate necessary measuring facilities, to the extent that such facilities are not being operated by another public agency, to provide records of the following:

(A) Inflow into Paso Robles Reservoir from

- (1) Jacks Creek,
- (2) Santa Rita Creek, and
- (3) Paso Robles Creek;

(B) Outflow from Paso Robles Reservoir:

- (1) Quantity released downstream, and
- (2) Quantity diverted through closed conduit;

(C) Water surface elevations of Paso Robles Reservoir;

(D) Evaporation from Paso Robles Reservoir;

(E) Ground water level of the water table in the vicinity of Templeton, location of wells to be subject to the approval of the State Water Rights Board; and

- (F) Amount of water charged into the ground water basin by project operations, method of determining said amount to be subject to the approval of the State Water Rights Board.

The measurements to be made pursuant to subparagraphs (E) and (F) above are to be limited to the period of time during which jurisdiction is retained by the Board in accordance with this Order and shall expire upon issuance of license.

6. Permittee shall make its records of such investigations and measurements available for inspection by the Board upon request and shall allow authorized representatives of the Board reasonable access to project works and properties for the purpose of gathering information and data.

7. Permittee shall release all inflow to the reservoir during the period May 1 through September 30 of each year as such inflow occurs.

8. The Board reserves continuing jurisdiction for such period of time, not to exceed 15 years unless additional time be found to be reasonably required, as may be necessary to determine the possible modification of rates and periods of release of water required for the protection of vested rights without resulting in the waste of water. During said period the Board, either upon the request of any affected party or on its own motion, may make such further and different orders as may be required concerning rates and periods of release of water and investigations, measurements, and studies to be conducted by permittee with reference thereto. All reservation of jurisdiction pursuant to this paragraph shall expire upon issuance of license.

9. Actual construction work shall begin on or before July 1, 1965, and thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked.

10. Construction work shall be completed on or before July 1, 1968.

11. Complete application of the water to the proposed use shall be made on or before July 1, 1971.

12. 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.

13. 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.

14. The permittee shall clear the site of the proposed reservoir of all structures, trees, and other vegetation which would interfere with the use of the reservoir for water storage and recreational purposes.

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 _____,
19__.

Kent Silverthorne, Chairman

Ralph J. McGill, Member

W. A. Alexander, Member