

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 24482)
to Appropriate Water from an)
Unnamed Stream in Lake County)
W. BAIRD AND MARGARET M. ANTON)
Applicants)

Order: 78-21

Source: Unnamed Stream

County: Lake

ORDER GRANTING EXTENSION OF TIME

BY THE BOARD

WHEREAS:

1. In 1973, W. Baird and Margaret M. Anton have filed an application to appropriate 3.34 cubic feet per second of water by direct diversion during the season of April 1 to May 15 of each year and to store 90 acre-feet per annum during the season of October 1 to June 30, from an unnamed stream, tributary to Scott Creek in Lake County, for frost protection, irrigation, stockwatering and recreation.

2. Protests to Application 24482 were filed; applicants were granted several extensions of time to negotiate settlements with protestants. The last protest was resolved and dismissed on May 23, 1977. Delay in resolving the protests was due to litigation pending between applicants and another party regarding use of water stored behind an existing dam. Application 24482 covers water currently being stored in an existing reservoir. The existing dam is located on the property of Gene F. Burger, and litigation has arisen over the right to use the water stored behind this dam. The current application proposes to build a dam

immediately adjacent to the existing dam, on applicants' property. Preoccupation with the litigation has made negotiation with protestants difficult.

3. The project contemplated in Application 24482 requires a use permit and might require a grading permit from Lake County. Lake County has indicated it would assume lead agency status for preparation of environmental documents under the California Environmental Quality Act (CEQA). However, applicants have not yet filed an application to the County.

4. Applicants have been notified by staff that County permits are required and that the Board can take no further action on the water right application until the County completes its environmental review of the project under CEQA.

5. Staff has granted applicants an extension of time until October 1, 1978 to apply for the County permits. Applicants have not yet applied for such permits, and request another extension of time until April 1978. The above-mentioned litigation is given as the reason for the delay.

6. It is the policy of the Board that extensions of time be granted only where the applicant demonstrates due diligence in pursuing his permit and where delays are caused by reasons beyond applicant's control. Several extensions of time have been granted by staff for the instant application because of the exigencies and uncertainties created by the litigation. These past extensions have yielded results -- all protests have been resolved. However, we do not regard the litigation as reason for long delays in applying to the County for the necessary permits; there appears no reason why application cannot be made while the court action is pending. In view of applicants' past record of achieving results when extensions of time were granted, but recognizing that indefinite delay cannot be allowed, applicants should be granted one further extension. If application is not made to the County by May 1, 1979, Application 24482 should be canceled.

THEREFORE IT IS ORDERED:

1. That applicants be granted an extension of time until May 1, 1979, for the purpose of applying to Lake County for whatever permits the County may require; and

2. That failure of applicants to apply to Lake County for such permits will result in cancellation of Application 24482 without further proceedings.

Dated:

DEC 21 1978.

/s/ JOHN E. BRYSON
John E. Bryson, Chairman

/s/ W. DON MAUGHAN
W. Don Maughan, Vice Chairman

/s/ L. L. MITCHELL
L. L. Mitchell, Member

/s/ WILLIAM J. MILLER
William J. Miller, Member