

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Temporary Permit }
18871 (Application 27726) }
JOHN KALFSBEEK, }
Applicant }
Order: WR 83-9
Source: Colusa Basin
Drainage Canal
County: Colusa

ORDER VALIDATING THE ISSUANCE OF
TEMPORARY PERMIT

BY BOARD CHAIRWOMAN ONORATO:

The applicant (John Kalfsbeek) having filed Application 27726 for a temporary urgency permit to divert and use unappropriated water pursuant to Chapter 6.5 (commencing with Section 1425), Part 2, Division 2 of the Water Code; the Board having consulted with U. S. Bureau of Reclamation (Bureau), California Department of Fish and Game, Contra Costa Water Agency and Department of Water Resources; Board Chairwoman Onorato having concluded from available information that the applicant qualifies for a temporary permit to divert and use water, subject to review and validation by the Board as provided by Water Code Section 1425; the Board finds as follows:

Substance of the Application

1. Application 27726 is for a temporary permit to divert 7.5 cubic feet per second from July 1 to August 31, 1983 from the Colusa Basin Drainage Canal (Canal), within the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 28, T16N, R2W, MDB&M, with the total diversion not to exceed 921 acre-feet. Water will be used for irrigation purposes within Sections 28 and 29, T16N, R2W, MDB&M.

The Project

2. Applicant currently diverts water under Permit 15825 for irrigation except for July and August. During these two months he pumps groundwater or purchases water on an interim basis from Yuba County Water Agency. However, the applicant's wells do not provide a sufficient supply of groundwater to fully meet his irrigation requirements.

3. The applicant is part of a group which is seeking to enter into a permanent water supply contract with the Bureau to provide for diversion of water from the Canal. This water would not be supplied directly to the applicant through the Canal since the Bureau has no conduits capable of getting the water there. Rather, the water would be released into the Sacramento River to flow into the Sacramento-San Joaquin Delta in exchange for water diverted from the Canal. Negotiations for the water supply contract have not been completed.

Availability of Water

4. During the irrigation season, the Bureau and Glenn-Colusa Irrigation District divert water from the Sacramento River for irrigation purposes. Return flow from Sacramento River diversions and other sources enters the Canal and is available for diversion and use on lands adjacent to the Canal.

5. In most years during July and August, the water in the Canal is required for use under prior rights along the Canal and by downstream users. After consulting with the Department of Water Resources and the Bureau, the Board has determined that July and August 1983 runoff will be

exceptionally high and will exceed prior right demands and Delta outflow standards for a "wet"-type year. On the basis of this review, staff has concluded that unappropriated water will be available for the proposed diversion and that the diversion and use will not adversely affect other beneficial uses.

6. A protest from Anderson Farms Company alleges that the proposed diversion by the applicant would interfere with the protestant's prior rights. No conditions were stated for withdrawal of the protest. Staff's review indicates that water will be available during July and August for diversion under a temporary permit. In accordance with Water Code Section 1430 a temporary permit is subject to modification or revocation at all times. If the applicant's diversion under a temporary permit interferes with the protestant's use of water under prior rights, the matter should be brought promptly to the attention of the Division of Water Rights.

7. In order to enable prompt action if necessary to protect prior rights and other beneficial uses, the Board should delegate to the Chief of the Division of Water Rights the authority to revoke a temporary permit or to reduce the quantity of water which may be diverted under the permit.

8. In response to a protest from Glenn-Colusa Irrigation District, the applicant agreed to cease diversions under a temporary permit if there is no flow passing the Davis Weir on the Canal. Glenn-Colusa Irrigation District advised the Board that this assurance met the conditions for dismissal of its protest. In accordance with the agreement between the applicant and the protestant, the temporary permit should include the following provision:

"Permittee shall cease to divert water under this permit whenever he is notified by Glenn-Colusa Irrigation District that there is no flow passing the Davis Weir."

Need

9. Diversion of surface water from the Canal requires less energy than is required to pump groundwater. When surface water is legally available for diversion, the use of groundwater is not an energy-conscious or cost-effective method of obtaining the water needed during July and August. Because the proposed contract with the Bureau has not been negotiated as yet, the applicant has an urgent but temporary need to divert water during July and August of this year. He wishes to divert under a temporary permit instead of attempting to purchase exchange water on a short-term basis from Yuba County Water Agency. Although it appears that water could be purchased from Yuba County Water Agency under a temporary exchange contract, it would serve no purpose to require the applicant to buy water when surplus water is available for diversion and use under a temporary permit. The Board does not interpret the urgency language of Water Code Section 1425(a) as requiring an applicant to pursue economically wasteful alternatives rather than diverting under a temporary permit.

Effects of the Proposed Diversion, Fish, Wildlife and Other Instream Uses

10. The Department of Fish and Game has stated that the proposed diversion will have no adverse effect on fish and wildlife. No stream alteration will take place since the diversion facilities are already in place.

California Environmental Quality Act

11. This Board Order authorizes diversion of water on a temporary urgency basis through existing facilities for a two-month period ending August 31, 1983. Such activity is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000, et seq.) in accordance with Section 15104, Chapter 3, Title 14, California Administrative Code.

Action by the Board

12. Staff explained the foregoing situation to Board Chairwoman Onorato and recommended approval of the temporary permit. Chairwoman Onorato concurred with the staff recommendation on May 12, 1983 and authorized issuance of the temporary permit. On the same day, the Chief of the Division of Water Rights issued Temporary Permit 18871.

NOW, THEREFORE, IT IS ORDERED that issuance of Temporary Permit 18871 is validated subject to the following conditions:

1. The Chief of the Division of Water Rights may revoke this permit or reduce the quantity of water authorized to be diverted under this permit if he determines that such action is necessary to protect prior rights or other beneficial uses; and
2. Permittee shall cease to divert water under this permit whenever he is notified by Glenn-Colusa Irrigation District that there is no flow passing the Davis Weir.

Dated: June 16, 1983

WE CONCUR:

Carole A. Onorato
Carole A. Onorato, Chairwoman

Warren D. Noteware
Warren D. Noteware, Vice Chairman

F. K. Aljibury
F. K. Aljibury, Member

Kenneth W. Wilkins
Kenneth W. Wilkins, Member