

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 20674
of David L. Marshall and
William R. Selch to Appropriate
from Kidder Creek Tributary to
Scott River in Siskiyou County

Decision D 1148
ADOPTED SEP 16 1963

DECISION APPROVING APPLICATION IN PART

David L. Marshall and William R. Selch having filed Application 20674 for a permit to appropriate unappropriated water; a protest having been received; the applicants and protestants having stipulated to proceedings in lieu of hearing as provided for by Title 23, California Administrative Code, Section 737; an investigation having been made by the State Water Rights Board pursuant to said stipulation; the Board, having considered all available information and now being fully advised in the premises, finds as follows:

1. Application 20674 is for a permit to appropriate 2 cubic feet per second (cfs) by direct diversion from April 1 to September 30 of each year for irrigation purposes from Kidder Creek in Siskiyou County. The point of diversion is to be located within the NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 36, T43N, R10W, MDB&M.

2. Applicants propose to repair existing diversion works and divert from Kidder Creek through an abandoned ditch, known as Dyer Ditch, approximately 1.5 miles to their place of use which consists of approximately 200 acres.

3. Protestants Thomas and Thelma Huddle, claiming pre-1914 appropriative rights, divert from Kidder Creek at a point approximately 2 miles below the applicants' point of diversion through a ditch approximately 3/4 mile in length for the irrigation of 266.75 acres. On May 6, 1959, they were diverting 6.42 cfs.

4. Mable M. and Wilbur L. Montgomery hold License 3231 (Application 10479) and License 3232 (Application 12141) confirming the right to divert 1.1 cfs between April 1 and June 30 and 0.3 cfs between April 1 and June 15 of each year, respectively, from Kidder Creek. They divert at a point between the applicants' and protestants' points of diversion. The terminal dates of the diversion seasons set forth in Licenses 3231 and 3232 were imposed following inspection and a determination that unappropriated water does not occur in the source after said dates to satisfy rights initiated pursuant to Applications 10479 and 12141.

5. High flows occur in Kidder Creek during the spring runoff months and the creek becomes completely dry at the applicants' point of diversion by July 1 of each year.

6. There is water surplus to the needs of the protestants and rights confirmed by the aforementioned licenses from April 1 to June 1 during most years, and such surplus water may occur through June 15.

7. There is unappropriated water available to supply the applicants from about April 1 to about June 15 of each year, 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. There is no unappropriated water available to supply the applicants from June 15 to September 30.

8. The intended use is beneficial.

9. The permit issued pursuant to this application should contain a condition that the permittees shall not divert at such times as surface flow is not passing the State Highway 82 Bridge, one-half mile south of the town of Greenview, or at such times as protestants Thomas V. and Thelma Huddle are not receiving their full diversion requirements at their present point of diversion.

From the foregoing findings, the Board concludes that Application 20674 should be approved in part and that a permit should be issued to the applicants subject to the limitations and conditions set forth in the following Order.

The records, documents, and other data relied upon in determining the matter are: Application 20674 and all relevant information on file therewith, particularly the report of the field investigation made September 11, 1962, the files of Applications 10479 and 12141, Licenses 3231 and 3232, State Department of Water Resources, Bulletin No. 83, "Klamath River Basin Investigation," dated May 1960; USGS Fort Jones, Etna, Sawyers Bar and Scott Bar quadrangle maps, 15-minute series, dated 1955.

ORDER

IT IS HEREBY ORDERED that Application 20674 be, and the same is approved in part, and that a permit be issued to the

applicants subject to vested rights and to the following limitations and conditions:

1. The amount of water appropriated shall be limited to the amount which can be beneficially used and shall not exceed 2 cubic feet per second by direct diversion to be diverted from about April 1 to about June 15 of each year. The equivalent of such continuous flow allowance for any thirty-day period may be diverted in a shorter time if there be no interference with vested rights.

2. Permittees shall not divert water from Kidder Creek at such time as surface flow is not passing the State Highway 82 Bridge, one-half mile south of the town of Greenview, or at such times as protestants Thomas V. and Thelma Huddle are not receiving their full diversion requirements at their present point of diversion.

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

4. Actual construction work shall begin on or before June 1, 1964, and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked.

5. Construction work shall be completed on or before December 1, 1966.

6. Complete application of the water to the proposed use shall be made on or before December 1, 1967.

7. Progress reports shall be filed promptly by permittees on forms which will be provided annually by the State Water Rights Board until license is issued.

8. 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.

9. Permittees 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.

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 _____, 1963.

Kent Silverthorne, Chairman

Ralph J. McGill, Member

W. A. Alexander, Member

