

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 21542
of the United States Bureau of
Reclamation to Appropriate from
Old River in Alameda County

Decision D 1250

ADOPTED JUN 1 1966

DECISION APPROVING APPLICATION

Application 21542 of the United States Bureau of Reclamation having been filed; protests having been received; a public hearing having been held before the State Water Rights Board on October 19, 1965, conducted by Board Members Kent Silverthorne, Chairman, Ralph J. McGill, and William A. Alexander; applicant and protestants having appeared and presented evidence; the evidence received at the hearing having been duly considered; the Board finds as follows:

1. Application 21542 is for a permit to appropriate 1,000,000 acre-feet per annum by off-stream storage in San Luis Reservoir from October 1 of each year to April 30 of the succeeding year for power purposes from Old River in Alameda County. The point of diversion is to be located within the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 29, T1S, R4E, MDB&M. The maximum rate of diversion to off-stream storage is to be 4,200 cubic feet per second (cfs).

2. The applicant has entered into a contract with the State of California for the construction and operation of the joint use facilities of the San Luis Unit of the Central Valley Project (USBR Exh. 6). Upon completion of this unit, water will be pumped from the Sacramento-San Joaquin Delta by the applicant's existing pumping plant on Old River a distance of approximately 70 miles through the applicant's Delta-Mendota Canal. Water from the Delta-Mendota Canal will be diverted by an intake canal and pumped into the forebay of the San Luis Reservoir. Water will also be delivered to the forebay from the State's aqueduct that is now under construction. Water from the forebay will be pumped by dual purpose pump-generators into the San Luis Reservoir, and power will be generated when the water is released back into the forebay.

3. By stipulation with the protestants, Sacramento River and Delta Water Association, California Department of Fish and Game, Delta Water Users Association, and Contra Costa County Water Agency, the applicant has agreed to request amendment of Application 21542 to eliminate the month of October from the storage season. The application is hereby accordingly amended (protestants' Exh. 1).

4. Application 21542 as amended, is for a permit to appropriate the same water as that covered by the storage feature of the applicant's Permit 12860, Application 15764. Application 21542 was filed to comply with the Board's Regulation 698 providing that, subject to certain exceptions,

separate applications must be filed for consumptive and nonconsumptive uses.

5. The issues involved in the matter of Application 21542 are included in the issues that were before the Board in the matter of Application 15764. There has been no showing of any change in circumstances since the Board's decision on that application (D 1020), adopted on June 30, 1961, to justify different findings on those issues. Official notice is hereby taken of Decision D 1020 and its findings as they relate to storage of water in the San Luis Reservoir, and they are hereby incorporated in this decision.

On December 23, 1965, the Board adopted an order extending time in which to formulate terms and conditions relative to salinity control pursuant to Decisions D 990 and D 1020. Official notice is also hereby taken of this order, and its findings are incorporated herein.

6. There is unappropriated water available 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.

7. By the aforementioned stipulation, the applicant agreed that any permit issued on Application 21542 shall be subject to the limitation that the rate of diversion under the permit, when added to all other diversions by the applicant from the Sacramento-San Joaquin Delta to the Delta-Mendota Canal pursuant to all other applications heretofore filed by

the applicant, shall not exceed a total of 4,600 cfs. This same limitation was made a term in Permit 12860, and it will be included as a term in the permit issued on Application 21542.

From the foregoing findings, the Board concludes that Application 21542 should be approved and that a permit should be issued to the applicant subject to the limitations and conditions set forth in the following order.

ORDER

IT IS HEREBY ORDERED that Application 21542 be, and it is, approved, and that permit be issued to the applicant subject to vested rights and to the following limitations and conditions:

1. The water appropriated from Old River for power purposes shall be limited to the amount which can be beneficially used and shall not exceed 1,000,000 acre-feet per annum by storage to be diverted from about November 1 of each year to about April 30 of the succeeding year.

The maximum rate of diversion to off-stream storage shall be 4,200 cubic feet per second.

2. The maximum rate of diversion through the Delta-Mendota Canal under this permit, together with other rights of permittee, shall not exceed 4,600 cubic feet per second.

3. The maximum quantity of water herein stated may be reduced in the license if investigation warrants.

4. Construction work shall be completed on or before December 1, 1985.

5. Complete application of the water to the proposed use shall be made on or before December 1, 1990.

6. Progress reports shall be filed promptly by permittee on forms to be provided annually by the State Water Rights Board until license is issued.

7. All rights and privileges under the 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, and unreasonable method of diversion of said water.

8. This permit shall be subject to rights initiated by applications for use within the Sacramento-San Joaquin Delta and the watershed of the Sacramento River Basin, as said Delta and watershed are defined in Decision D 1020, regardless of the date of filing said applications.

9. The State Water Rights Board reserves continuing jurisdiction of this permit until further order of the Board, for the purpose of formulating terms and conditions relative to salinity control in the Sacramento-San Joaquin Delta. Permittee shall, on or before January 1, 1967, and each six months thereafter, submit to the Board a written report as to

the progress of negotiations relative to agreement between the permittee and the State of California and/or the permittee and the water users in the Delta and in northern Contra Costa County.

10. The Board reserves continuing jurisdiction of this permit for an indefinite period not to extend beyond the date of issuance of license for the purpose of coordinating terms and conditions of the permit with the terms and conditions which have been, or which may be, included in permits issued pursuant to other applications of the United States in furtherance of the Central Valley Project and applications of the State of California in furtherance of the State Water Resources Development System.

11. Upon request of the Board, permittee shall make such measurements and maintain and furnish to the Board such records and information as may be necessary to determine compliance with the terms and conditions of this order, including the recognition of vested rights, and for the further purpose of determining the quantities of water placed to beneficial use under this permit.

12. This permit shall be subject to "Agreement between the United States of America and the Department of Water Resources of the State of California for the Construction and Operation of the Joint-Use Facilities of the San Luis Unit," dated December 30, 1961, filed of record as Bureau of Reclamation Exhibit 6 in the hearing of Application 15764.

13. This permit shall be subject to "Agreement between the United States of America and the Department of Water Resources of the State of California for the Coordinated Operation of the Federal Central Valley Project and the State Feather River and Delta Diversion Projects," dated May 16, 1960, filed of record as Bureau of Reclamation Exhibit 3 in the hearing on Application 15764.

14. In accordance with Water Code Section 1393, permittee shall clear the site of the proposed reservoir of all structures, trees, and vegetation which would interfere with the use of the reservoir for water storage and recreation purposes.

Adopted as the decision and order of the State Water Rights Board at a meeting duly called and held in Sacramento, California, on the day of 1966.

/s/ Kent Silverthorne
Kent Silverthorne, Chairman

/s/ Ralph J. McGill
Ralph J. McGill, Member

/s/ W. A. Alexander
W. A. Alexander, Member