

STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC WORKS
BEFORE THE STATE ENGINEER AND
CHIEF OF THE DIVISION OF WATER RESOURCES
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In the Matter of Application 11640 by Joe S. and Mary G. Ferreira to Appropriate Water from Capp's Ravine Tributary via Doty and Coon Creeks to Auburn Ravine in Placer County for Irrigation Purposes.

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Decision A. 11640 D. 675

Decided August 31, 1950

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IN ATTENDANCE AT INVESTIGATION CONDUCTED BY THE DIVISION OF WATER RESOURCES AT THE SITE OF THE PROPOSED APPROPRIATION ON AUGUST 27, 1948:

Joe S. Ferreira	Applicant
Mary G. Ferreira	Applicant
Charles T. Law and) (Edward C. Wells)	Protestant's representatives
A. S. Wheeler	Senior Hydraulic Engineer Division of Water Resources Department of Public Works Representing the State Engineer

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OPINION

General Description of the Project

The application seeks to appropriate 0.13 cubic foot per second, from Capp's Ravine at a point within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 26, T 13 N, R 7 E, M.D.B. & M., in Placer County, from April 1 to November 1 of each season for the irrigation of 10 acres of pasturage lying partly within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 26 and partly within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 35, T 13 N,

R 7 E, M.D.B. & M. The applicant names the Nevada Irrigation District as another source of water supply. His conduit is to be a pipe line 1000 feet long, partly 6 inches and partly 4 inches in diameter. According to the application he owns the place of use but not the point of diversion which is the same point of diversion, he states, as that described in Application 2190. He states also that he already has a pipe line leading to that point.

Protest

The Nevada Irrigation District protests the application, claiming that all water flowing in the source in question at the proposed point of diversion during the summer months is return flow from irrigated lands, and that that water is later recovered by the protestant for re-use. The protestant states that its own diversion heads within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 36, T 13 N, R 6 E, M.D.B. & M., on Doty's Ravine and that it is now diverting practically the entire flow and putting it to beneficial use under Section 22430 of the State Water Code. It claims the right to use any and all return flow, exclusive of natural flow, and submits that there is not enough natural flow at the point where the applicant proposes to divert, to satisfy the application.

The applicants answer the protest by denying that all water flowing during the summer season in Capp's Ravine is foreign water, alleging on the contrary that said ravine contains natural flow in the amount applied for, that the protestant has no right of way through the applicants' lands for a ditch or canal, or flowage rights, and that the applicants' lands are riparian. They also deny that Capp's Ravine has been appropriated to the public use by the protestant and deny that the State had any

rights in Capp's Ravine through the applicants' lands which the protestant could acquire under Section 22430 of the State Water Code.

Field Investigation

The parties having stipulated to an informal hearing as provided for in Section 733(b) of the California Administrative Code a field investigation was conducted at the site of the proposed appropriation on August 27, 1948 by an engineer of the Division. The applicants and the protestant were present or represented at the investigation.

Records Relied Upon

Applications 1270, 1923, 2190 and 11640 and all data and information on file therewith.

Discussion

Under Application 1923, License 352, the diversion of 0.125 cubic foot per second (5 miner's inches) is authorized from Sailors Ravine (another name for the channel into which Capp's Ravine drains) at a point within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 34, T 13 N, R 7 E, M.D.B. & M. This point is roughly 1 mile downstream from the point at which diversion is desired under Application 11640. It is over 4 miles upstream from the protestant's point of diversion on Doty Creek. A licensee's report (for triennium ending in 1944) states "The license calls for 5 inches but it varies according to what comes down the stream. Sometimes more, sometimes less." The licensee's season of use is from May to October, both inclusive. In the inspection report of Application 1923, on September 19, 1922, it is stated, " - - - the source - - -

is a creek which in former years had no water during the summer. However since the increase in the use of water for irrigation on lands above him there has been considerable return water - - -. At the time of the inspection there was about 10 miner's inches flowing - - -".

Under Application 2190, Permit 1003, License 510 (as amended) Joe S. and Mary G. Ferreira are authorized to divert 0.12 cubic foot per second (4.8 statute inches) from Capp's Ravine at the same point as described in their pending Application 11640. The Ferreriras in their "Report of Licensee" for triennium ending in 1946 state, " - - -the amount of water is sometimes we get full amount of water other times we don't get so much because in the (summer) things are pretty dried." An earlier report (for 1931) stated "About two inches of water was available during the summer months." In a report of inspection of Application 2190 on August 25, 1923, it is stated, "If the dam were repaired to eliminate the leakage and the alignment of the upper end of the pipe line changed to eliminate the slight grade the available water could be increased to $3\frac{1}{2}$ or 4 miner's inches."

The information reported in connection with Application 1923 and 2190 as outlined in the 2 preceding paragraphs points to the probability that the natural flow of Capp's Ravine, during the summer months is little if at all in excess of the amounts already appropriated.

Nevada Irrigation District, the protestant, has filed numerous applications involving relatively large amounts to appropriate from sources within Placer and Nevada Counties, and for purposes of inter-connection and distribution it depends upon certain natural watercourses

ments, as follows:

<u>Date</u>	<u>Flow of Capp's Ravine (miner's inches)</u>	<u>Remark</u>
12/31/48	5.60	
1/6/49	5.60	
1/8/49	4.40	
1/12/49	2.68	
1/15/49	4.40	
1/20/49	9.84	Storm
1/22/49	16.44	Storm
1/26/49	5.60	
1/29/49	4.40	
2/2/49	3.00	
2/5/49	11.16	Storm
2/9/49	16.44	Storm
2/11/49	11.84	Storm
2/14/49	7.60	Storm
2/19/49	4.40	
2/23/49	3.96	
2/26/49	3.60	

By letter dated April 13, 1949 the applicants objected to the protestant's measurements of the preceding paragraph claiming that they were not representative due to frozen conditions during December, 1948 and January, 1949. By letter dated April 18, 1949, the applicants' attorney stated that the applicants installed a measuring box with an opening at first 4 inches by 2 $\frac{1}{2}$ inches and later 4 inches by 2 inches and observed the flow of Capp's Ravine as it passed through that box on several days each month from November, 1948 to April, 1949, both inclusive, that there was never less than 2 inches of head over the center of the 4 by 2 inch opening and that often the head exceeded 6 inches. Calculations indicate that the discharge through the opening described is of the order of 4.4 miner's inches when the head on the center is 2 inches and 7.7 miner's inches when the head is 6 inches. In a letter dated June 30, 1949, the same attorney quoted the applicants as stating, " - - - Pretty near all the time of the frozen weather the water was a little low. In January sometimes it was full measure with six inch pressure, sometimes lower,

of the region as elements of its conduit system. Certain of its applications including Application 1270 designate a point of diversion on Doty Creek some 5 miles below the head of the diversion proposed under Application 11640. From the general map of the project (reference: Permit 2082) it appears that the ravine into which Capp's Ravine empties (Sailors Ravine) and a considerable reach of Doty Ravine downstream therefrom are depended upon as natural conduits. Such conduits, it appears from the same general map, may receive and convey, for re-use at lower levels, both waters diverted by Nevada Irrigation District from other sources and return flow from tributary, irrigated lands.

At the time of the field investigation of August 27, 1948, a measured flow in Capp's Ravine of 0.48 cubic foot per second was reported and the protestant contended that very little of that amount was natural flow and requested that action by the Division be deferred until measurements of natural flow could be made. According to the report of that investigation the watershed tributary to the applicants' intake is about one square mile in extent and is sparsely wooded. During that investigation the protestant's representative stated that all runoff from irrigated lands within the watershed resulted from the protestant's deliveries; that such water was the protestant's property and was rediverted downstream to other customers. The applicant replied that due to the character of his land, including its steepness, his operations resulted in a greater flow below his diversion point than above.

By letter dated December 17, 1948 the protestant reported that the flow of Capp's Ravine on December 16, 1948 measured 6.5 miner's inches. By letter dated March 30, 1949 the protestant reported additional measure-

sometimes just about three or four inches above the opening. In February and March there was always plenty of water, five to six inches above the center of the opening most of the time."

The figures reported by the protestant, neglecting those affected by storms, average 4.34 miner's inches. The applicants' statements indicate that flow may have averaged closer to 6 or 7 miner's inches. These figures however apply to winter conditions and it may be presumed that from April to October, both inclusive, the season during which the applicants seek to divert, the flow will be substantially less than in winter. No basis is seen for supposing natural flow during the irrigating months to average in excess of the 5 miners inches which the applicants have already appropriated under Application 2190. Limited return flow from upstream irrigation also appears to occur at times in Capp's Ravine but the applicants have not contradicted nor does any available information contradict the protestant's assertion as to its right to retain control over such return flow from lands which it supplies.

From the information above summarized it is concluded that the flow of Capp's Ravine at the point of diversion proposed under Application 11640 from April 1 to November 1 is seldom if ever more than sufficient to satisfy requirements under existing rights, that unappropriated water in that source and during that period is ordinarily non-existent, and that for those reasons Application 11640 should be rejected and cancelled upon the records of this office.

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ORDER

Application 11640 for a permit to appropriate water having been filed, a field investigation having been made, a stipulated hearing having been held in accordance with Article 13, Section 733(b) of the Administrative Code and the State Engineer now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 11640 be rejected and cancelled upon the records of the Division of Water Resources, without prejudice.

WITNESS my hand and the seal of the Department of Public Works of the State of California this 31st day of August, 1950.



A. D. Edmonston

A. D. Edmonston
State Engineer