

STATE OF CALIFORNIA  
DEPARTMENT OF PUBLIC WORKS  
BEFORE THE STATE ENGINEER AND  
CHIEF OF THE DIVISION OF WATER RESOURCES

oOo

In the Matter of Application 16127 by Orin and Marian E. Croft  
to Appropriate Water from Elder Creek Tributary to Beach Lake  
in Sacramento County for Irrigation Purposes and Stockwatering.

oOo

Decision A 16127 D 845

Decided January 24, 1956

oOo

In Attendance at Investigation Conducted by the Division of  
Water Resources on August 19, 1955:

Orin Croft	Applicant
Carl M. Sepponen	Protestant
Claude Elliott	Former owner of Croft property
K. L. Woodward Senior Hydraulic Engineer Division of Water Resources Department of Public Works	Representing the State Engineer

oOo

oOo

DECISION

Substance of the Application

The applicants seek to appropriate 0.17 cubic foot per second, year-round, from Elder Creek, tributary to Beach Lake, in Sacramento County, for the irrigation of 13.39 acres of pasture, from about April 1 to about November 15 and for the watering of 30 head of beef cattle throughout the year. They propose to pump from the unobstructed channel at a point within the NW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 32, T8N R6E, MDB&M. The project includes a 600 gallon-per-minute pump and 660 lineal feet of 8-inch diameter concrete pipe. The applicants claim to own both the land at the proposed point of diversion and the land upon which the water is to be used.

Protest

Carl M. and Audrey L. Sepponen protest the application, stating that they divert from Elder Creek under Application 15225 at a point some 4 miles downstream from applicants' proposed point of diversion, that from June 18 to August 16, 1954 Elder Creek was completely dry, a circumstance which resulted in the drying up of their 7 acres of permanent (clover) pasture. They contend that any additional diversion from Elder

Creek will injure their pasture permanently. They mention no condition under which their protest may be disregarded and dismissed.

#### Answer

The applicants answer the protest by stating that they purchased their property in October, 1954, that Elder Creek was flowing at that time, that the former owner informed them that the creek was never dry at their desired point of diversion, that both a pump company representative and a neighbor asserted that supply is plentiful during irrigation seasons.

#### Field Investigation

The applicants and the protestants with the approval of the Division having stipulated to the submittal of the application and protest upon the official records, a field investigation was conducted on August 19, 1955 by an engineer of the Division. The applicants and the protestants were present or represented during the investigation.

#### Records Relied Upon

Applications 15225 and 16127 and all data and information on file therewith; Carmichael, Elk Grove and Florin quadrangles, United States Geological Survey.

Information Secured by Field Investigation

According to the report of field investigation the investigator made an unaccompanied investigation of the area and stream in question on July 7, 1955, as well as the investigation attended by Messrs. Craft, Sepponen and Elliott on August 19; Application 15225 is the only filing on Elder Creek below the point where the applicants Croft propose to divert; Elder Creek rises at or about elevation 100 on undulating, open terrain, flows westerly and southerly some 15 miles and discharges into Beach Lake about 2 miles east of Freeport; the Elder Creek watershed receives practically no rainfall during irrigation seasons and flow is unaffected by snowmelt; flow during irrigation seasons appears limited to runoff from irrigation of lands supplied from deep wells; the area drained by Elder Creek is rather extensively developed and there is considerable irrigation of lands in permanent pasture and general crops. As to channel conditions the report states:

"Protestants' property is located about 4 miles downstream from the applicants' with a difference of elevation of about 25 feet. . . . the creek has the appearance of little more than a small drain ditch and the flat grade and slow movement of water have . . . nurtured a prolific growth of tules, cattails and water grasses . . . . Only a few short reaches of the creek between the (parties') points of diversion are void of tule and cattail growth. These sections . . . are shallower and have the appearance of receiving surface flow only upon irregular intervals. . . .

" ... the conditions noted (on) July 7 and August 19 ... are assumed to reasonably represent normal conditions. The July 7 investigation failed to reveal any flowing water ... downstream from Florin Road ... although water was noted standing in pools .... The channel immediately above this crossing ... was dry and showed no evidence of flow for some time. Also, the channel below Frasinetti Road crossing ... was dry. The culvert through French Road was partly clogged with ... trash .... Conditions as noted on August 19 were essentially identical with conditions on July 7. According to Mr. Sepponen, there had been no flow in the channel at his point of diversion between the two dates mentioned except for a small amount of runoff from a clover field ... north of him .... (He) ... contended that practically no water had been available this year subsequent to June 20.

"Elder Creek at the applicants' point of diversion was flowing about 7 gpm on August 19 (no measurement made on July 7) which was originating almost entirely from irrigated pasture ... on the east. Mr. Croft stated that the previous day flow had been slightly more but agreed that at other times it is less or may stop completely for short periods. Generally speaking ... flow is erratic, is entirely local drainage, and is dependent upon the pumping activities of nearby property owners."

As to water utilization the investigator reports that the applicants have not yet diverted from Elder Creek, that a portion of their place is in permanent pasture and is irrigated from a deep well, that the Sepponens divert both from Elder Creek and from a well, and that the land which they irrigate from Elder Creek shows a definite lack of water. The investigator concludes that while the supply obtainable from Elder Creek during irrigation seasons is small, erratic and dependent upon runoff from lands irrigated

from wells, the applicants can use beneficially such flow as reaches them as a supplement to the supply from their well. He concludes further that said flow, if Application 16127 is denied, would practically all be lost by consumption by the vegetation that chokes the channel.

#### Other Information from Division Files

Application 15225 Permit 9411 authorizes Carl M. and Audrey L. Sepponen to divert 0.13 cubic foot per second, from March 1 to October 31 of each year, from Elder Creek, at a point within SE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 2, T7N R5E, MDB&M, for the irrigation of 10 acres of pasture within the same quarter quarter section. According to the progress report by permittees for 1954 the creek was dry during May and June of that year, water was used from July to October, both inclusive, 5 acres were irrigated.

#### Discussion

Flows passing the applicants' proposed point of diversion, according to the information secured by field investigation, are scanty and intermittent and seldom if ever reach the protestants, during the irrigation months, being lost in support of wild growth in the 4 miles of channel between the parties. The diversion of such flows during the irrigation

months therefore cannot materially injure the protestants if it injures them at all. Since the protestants' appropriate right under Application 15225 Permit 9411 authorizes diversions only between March 1 and October 31 it cannot bar an appropriation, upstream, between October 31 and March 1, when flow past the applicants may be greater and may extend to or beyond the protestants. The flow at the applicants' proposed point of diversion while probably unsatisfactory as a sole supply for irrigation may be used beneficially by the applicants in conjunction with the supply that is available to them from their well.

#### Conclusion

Unappropriated water exists at times in Elder Creek at the point at which the applicants seek to appropriate. Such water may be taken and used in the manner proposed without appreciable effect upon the protestants. In view of these circumstances it is the opinion of this office that the protest against Application 16127 is an insufficient basis for denial and that Application 16127 should therefore be approved and permit issued, subject to the usual terms and conditions.

oOo

oOo

ORDER

Application 16127 having been filed with the Division of Water Resources as above stated, a protest having been filed, stipulations having been submitted, a field investigation having been conducted and the State Engineer now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 16127 be approved and that a permit be issued to the applicants, subject to such of the usual terms and conditions as may be appropriate.

WITNESS my hand and the seal of the Department of Public Works of the State of California this 24th day of January, 1956.

HARVEY O. BANKS  
~~ACTING~~ STATE ENGINEER

By L. C. Jopson  
L. C. Jopson  
~~Principal Hydraulic Engineer~~  
Assistant State Engineer

