

AWB

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 16326)	
of Ora I. and Frank W. Crossley)	Source: Two unnamed
and Application 16327)	streams tributary
of Frank W. and Margaret M. Crossley)	to Secret Ravine
)	County: Placer

Decision No. D 902

Decided: May 14, 1958

In attendance at investigation conducted by the staff
of the State Water Rights Board on July 31, 1956.

Frank W. Crossley	Applicant
Ruben J. Ruhkala	Protestant
Ervin Pekuri	Protestant
R. E. and Ruby Horton	Portestants
Joe Boisa	Interested Party
E. C. Johnson Assistant Hydraulic Engineer	Representing the State Water Rights Board

DECISION

Substance of the Applications

Application 16326 is for a permit to appropriate
0.44 cubic foot per second, year-round, from two unnamed streams
tributary to Secret Ravine for irrigation and stockwatering

purposes. Water is to be diverted at two points (designated 1 and 2) within the NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 10, T11N, R7E, MDB&M,* by means of rock dams, 2 feet in height by 15 feet long, for irrigation purposes, and stock will drink directly from the stream at a third point (3) within the same 40-acre subdivision. Points of diversion (1) and (2) are on separate streams, and point of diversion (3) is at the junction of the two streams. An earth ditch 3,500 feet in length and 100 feet of 8-inch steel pipe are to be used to convey the water to the place of use. A total of 35 acres of pasture is to be irrigated comprising 5 acres in the SE $\frac{1}{4}$ of NE $\frac{1}{4}$, 20 acres in the NE $\frac{1}{4}$ of SE $\frac{1}{4}$ and 10 acres in the NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 10, T11N, R7E. Fifty head of cattle are to be watered.

Application 16327 is for a permit to appropriate 0.075 cubic foot per second the year around from an unnamed stream (one of the streams included in Application 16326) tributary to Secret Ravine for irrigation and stockwatering purposes. Diversion is to be effected at a point within the NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 11, T11N, R7E, by means of a rock dam 1.5 feet in height and 8 feet long. The water is to be conveyed to the place of use through an earth ditch 1,200 feet in length. A total of 6 acres of pasture is to be irrigated consisting of 2 acres in the SW $\frac{1}{4}$ of SW $\frac{1}{4}$ and 4 acres in the NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 11, T11N, R7E. Fifteen head of cattle are to be watered also.

* All township references within this decision are to Mount Diablo Base and Meridian (MDB&M).

Protests

All of the protestants divert from Secret Ravine at points downstream from the junction of the two unnamed streams under consideration.

Ruben J. Ruhkala protests approval of the applications on the basis of Permit 9557 (Application 15318) alleging that the source of the water is uncertain, being irrigation return runoff, and that a shortage would cause his irrigated pasture to die, thus jeopardizing his plans for future operation and causing a direct loss of money invested in his irrigation project as well as a loss in value of the real estate. Protestant Ruhkala indicates that he uses 10 inches of water between April 1 and November 30 of each year for irrigation of pasture and that his point of diversion is within the SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 20, T11N, R7E.

Ervin O. and Polly Pekuri protest approval of the applications on the basis of License 3460 (Application 13075) alleging that they have 3 acres of permanent pasture, garden and lawn which has suffered from lack of water several times during past irrigation seasons and any further diversion would result in permanent damage. The protestants indicate that water is used for irrigation, domestic, and stockwatering purposes, the irrigation season being from May 1 to September 30 of each year. According to the protest the protestants' point of diversion is located within the NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 20, T11N, R7E.

R. E. and Ruby Horton protest the applications, claiming that their supply of water would be reduced in dry seasons

because of the low supply available. The protestants' claim of right is based upon Permit 9394 (Application 14410) and riparian ownership. Protestants Horton indicate that use of water has been made since 1939 for irrigation of 5 acres of red raspberries as needed year around. According to the protest their point of diversion is located within the SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 10, T11N, R7E, MDB&M.

Answers to Protests

In answer to the protests, the applicants state that the amounts of water they propose to appropriate will not interfere with rights on Secret Ravine, that surplus water from irrigation of their permanent pasture will drain back into the source and that the unnamed streams from which water is to be taken are very short and contribute only a small amount of water to Secret Ravine.

Field Investigation

The applicants and protestants, with the approval of the State Water Rights Board, stipulated to proceedings in lieu of hearing as provided for under Section 737 of the Board's rules, and a field investigation was conducted on July 31, 1956, by E. C. Johnson, an engineer of the Board. The applicants and protestants were present at the investigation.

Records Relied Upon

The records relied upon in support of this decision are Applications 6540, 7646, 11740, 12455, 13075, 14410, 15318, 15383, 15384, 15549, 16326, 16327, and 17224 and all relevant

information on file therein; Rocklin (1954) and Roseville (1954) Quadrangles, USGS, 7½ minute series, scale 1:24,000.

Information Obtained by Field Investigation

According to the "Memorandum of Field Visit", dated July 31, 1956, the projects under Applications 16326 and 16327 are complete, having been in full operation for 4 years and 8 years respectively prior to that date. The memorandum indicates that point of diversion (1) under Application 16326 is being used for irrigation, whereas points of diversion (2) and (3) are used for stockwatering only. At the time of the investigation an estimated one cubic foot per second was flowing at point of diversion (1) of which about 0.25 cubic foot per second was being diverted into a ditch for flood irrigation of 10 acres of pasture, with excess water running back into the stream. No flow was observed at point of diversion (2) and an estimated one cubic foot per second was observed at point of diversion (3).

The aforementioned memorandum also indicates that under Application 16327 water is diverted into a ditch by means of a small rock dam. This ditch meanders through 4 acres of pasture and eventually empties back into the stream. At the time of the investigation the flow of the stream was estimated at 0.2 cubic foot per second, of which about 0.15 cubic foot per second was being diverted. All of the surface flow of the stream was observed to cease a short distance below the point of diversion.

The memorandum indicates that, although all of the protestants appeared concerned about the increased use of water

from the source in question, protestant Ruhkala, the lowermost protestant, was the only one claiming a shortage of water within the past 2 years. This shortage allegedly occurred for about 2 weeks during July of 1955. All of the protestants agreed that the amount of water available was increasing from year to year, apparently due to upstream development.

Information from Other Sources

Table I sets forth the pertinent features of water rights of record with the State Water Rights Board on Secret Ravine with priorities earlier than the subject applications below the confluence of the streams in question.

TABLE I

Applications to Appropriate from Secret Ravine
Downstream from and with Priority Earlier than Applications 16326-7

Appli- cation: No. :	Name	:Amount :(cfs)	: Season	:Status	: Distance : Below :Confluence :(Miles)
14410	R. E. and R. Horton	0.1	4/1-10/31	Permit	.4
6540	Manuel Roman	0.2	5/1-10/1	License	.5
15549	L. L. Black, et al.	0.13	5/1-10/30	Permit	.7
12455	H. J. Hacker, et al.	0.31	5/15-10/15	License	1.3
11740	Division of Highways	0.25	4/1-10/15	Permit	2.4
7646	Joe Boisa	0.12	1/1-12/31	License	2.9
13075	E. O. and P. Pekuri	0.05	1/1-12/31	License	3.2
15318	R. J. Ruhkala	0.5	4/1-11/30	Permit	3.3
15383	Union Granite Co.	0.025	1/1-12/31	Permit	3.8
15384	Union Granite Co.	0.31	4/1-11/30	Permit	3.8

A report covering an inspection of the project under Application 7646 on September 11, 1936, contains among others the following statement:

"Secret Ravine has a watershed above this project of some 20 square miles of rolling foothill country. Summer flow is largely drainage from orchard irrigation about Newcastle. At the time of the inspection, the estimated flow at permittee's point of diversion was one cubic foot per second and that was said to be about the lowest flow of the year."

In a memorandum covering a field visit to the project under Application 11740, dated July 27, 1954, it is stated that the estimated flow in Secret Ravine at that time was 100 gallons per minute.

According to memoranda of field visit relating to the project under Application 14410 dated May 8, 1952, and June 6, 1955, the flow in Secret Ravine was found to be about 15 cubic feet per second and 2.1 cubic feet per second on the respective dates. During the visit in 1955 the permittee indicated that the flow in Secret Ravine had been increasing during the past 2 years.

Extracts from a report covering an inspection of the project under Application 12455 made on April 16, 1952, are as follows:

The source is..."Secret Ravine with flow about double that of last year. Estimated flow (at time of visit) was 5 cubic feet per second. Permittee stated flow in 1951 was ample for his needs except during the month of August when Pacific Gas and Electric Company cut their releases in this area.

"Most of the summer flow is waste water from lands of upstream irrigators who purchase water from the Pacific Gas and Electric Company."

According to a report covering a field investigation of Application 15549 on September 20, 1954, Secret Ravine begins

immediately south of the town of Newcastle and flows south-westerly for a distance of about 10 miles to a junction with Miners Ravine, near the City of Roseville. The contributory watershed is principally low rolling hills extensively developed agriculturally, with primary crops being orchard and permanent pasture. It is stated in the report that the opinion of the parties present at the investigation was that normally by June 1 of each year there is no natural flow in Secret Ravine. It was indicated that the flow in the ravine during the irrigation season is extremely erratic, both as to its amount and time of occurrence due to the operations of Pacific Gas and Electric Company, and that the flow consists of return water from upstream irrigation and spillage and waste water from the many ditches and conduits of the aforementioned company serving irrigation water to the area. Those present at the investigation conceded that shortages are experienced only during June, July and August and that such shortages are only intermittent.

During an investigation on September 20, 1954, of Application 15549 flow of Secret Ravine at the county bridge due east of Rocklin was determined by float measurement to be about 6 cfs.

Several measurements of the flow in Secret Ravine at a point about 0.5 mile above its junction with Miners Ravine are noted in memoranda dated April 29 and May 28, 1957, in connection with Application 17224. These memoranda indicate that the flow was measured at 25.21 cubic feet per second on April 23, 1957, and at 17.7 cubic feet per second on May 28, 1957.

Discussion

It is reportedly characteristic of Secret Ravine that natural flow therein extends only until about June 1 and that flow thereafter is limited to drainage from irrigated lands and releases or wastage from ditches of Pacific Gas and Electric Company in the area and becomes less dependable. Miscellaneous observations and measurements that have been made over the years by engineers of the State Water Rights Board and predecessors at various points along a 4-mile reach of Secret Ravine (extending downstream from the confluence of the unnamed streams under consideration) as discussed in the preceding paragraphs of this decision are arranged in Table II progressively by days of the year.

TABLE II

Measured and Estimated Flow of Secret Ravine at Points
Downstream from Applications 16326 and 16327

<u>Amounts in cfs</u>	<u>Date</u>
5	April 16, 1952
25.21	April 23, 1957
15	May 8, 1952
17.7	May 28, 1957
2.1	June 6, 1955
0.22	July 27, 1954
1.0	September 11, 1936
6	September 20, 1954

Representations by the protestants that flow is sometimes deficient are not indications that unappropriated water does not at times exist. In fact, protestant Ruhkala was the only party, during the field investigation on July 31, 1956, who claimed a shortage of water within the past 2 years (prior to 1956). The protestants appear to be in general agreement that

the summer flow in Secret Ravine has been increasing each year. Since no protests were received from lawful users on Miners Ravine below the confluence with Secret Ravine, it may be assumed that they are amply supplied from other sources. Therefore flow passing the intake of the lowermost protestant may be concluded to be subject to appropriation.

It is further apparent that the applicants had already been using water for several years without any adverse effect except as noted by protestant Ruhkala. This would appear to bear out the contention of applicants that the tributary from which they divert contributes only a minor portion of the flow depended on by the protestants and that such flow as does occur in the said tributary can usually be diverted without injury to downstream users.

Conclusion

The available information relating to the applications and protests points to the conclusion that the flow of the sources from which the applicants seek to appropriate is erratic and uncertain, that unappropriated water nevertheless exists therein frequently and that such water, when it exists, may be taken and used beneficially in the manner proposed by the applicants, without injury to downstream users. In view of that conclusion, it is the opinion of the Board that the protestants' objections are not based upon reasons sufficient to bar the approval of Applications 16326 and 16327 and that the applications should therefore be approved and permits issued, subject to the usual terms and conditions.

ORDER

Applications 16326 and 16327 for permits to appropriate unappropriated water having been filed with the former Division of Water Resources, protests having been filed, applicants and protestants having submitted stipulations to the proceedings in lieu of hearing as provided for under Section 737 of the California Administrative Code, Title 23, Waters, jurisdiction of the administration of water rights including the subject applications having been subsequently transferred to the State Water Rights Board, an investigation having been made by the Board, and said Board now being fully informed in the premises:

IT IS HEREBY ORDERED that Applications 16326 and 16327 be, and the same are hereby approved and that permits be issued, subject to vested rights and to the following terms and conditions, to wit:

1. The amount of water to be appropriated under Application 16326 shall be limited to the amount which can be beneficially used and shall not exceed 0.44 cubic foot per second by direct diversion to be diverted from (a) about April 1 to about November 1 of each year for irrigation purposes and (b) throughout the year as required for stockwatering purposes.

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. The amount of water to be appropriated under Application 16327 shall be limited to the amount which can be beneficially used and shall not exceed 0.075 cubic

foot per second by direct diversion to be diverted from (a) about April 1 to about November 1 of each year for irrigation purposes and (b) throughout the year as required for stockwatering purposes.

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.

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

4. Actual construction work shall begin on or before June 1, 1958, and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked.

5. Said construction work shall be completed on or before December 1, 1960.

6. Complete application of the water to the proposed use shall be made on or before December 1, 1961.

7. Progress reports shall be filed promptly by permittee 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.

Adopted as the decision and order of the State Water Rights Board at a meeting duly called and held at Fresno, California, on the 14th day of May, 1958.

/s/ Henry Holsinger

Henry Holsinger, Chairman

/s/ W. P. Rowe

W. P. Rowe, Member

/s/ Ralph J. McGill

Ralph J. McGill, Member