

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 21888
of Leroy and Myrtle Ross to Appro-
priate from an Unnamed Stream
in Placer County

Decision 1292

DECISION APPROVING APPLICATION IN PART

Leroy and Myrtle Ross having filed Application 21888 for a permit to appropriate unappropriated water; protests 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 (predecessor of the State Water Resources Control 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 21888 is for a permit to appropriate 0.06 cubic foot per second (cfs) by direct diversion from April 1 to October 31 of each year for irrigation purposes from an unnamed stream in Placer County. The point of diversion is to be located within the NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 11, T11N, R7E, MDB&M.

2. The unnamed stream heads at an elevation of about 700 feet and courses in a general southwesterly direction some

1-1/4 miles to the applicants' proposed point of diversion. It continues in the same general direction one mile, more or less, to enter Secret Ravine. Secret Ravine continues in the same general direction for about seven miles to join Miners Ravine. Miners Ravine continues another mile or so to merge with Antelope Creek, forming Dry Creek. There is no hydraulic continuity between the unnamed stream and the Delta during the months of July and August.

3. The applicants plan to use the water from the unnamed stream for irrigation of permanent pasture on a 3-acre parcel where they have a home under construction. A well on the property will be the source for their domestic use.

4. The water in the unnamed stream occurring during the summer months consists principally of waste water from upstream irrigation, and uncontrolled spills and releases by the Pacific Gas and Electric Company from the Barton Canal. On September 5, 1967, the flow of the unnamed stream was measured at 36 gallons per minute at a point about 1,000 feet above its confluence with Secret Ravine.

5. Protestants J. F. and Anna L. Comrie divert from Secret Ravine approximately two miles below its confluence with the unnamed stream. They hold License 3690 (Application 12455) for 0.31 cfs from May 15 to October 15 for irrigation, domestic, and stockwatering purposes. Protestant Sierra Junior College District diverts from Secret Ravine about two miles below the Comries. It holds License 2463 (Application 7646)

for 0.12 cfs from April 1 to October 1 for irrigation purposes and throughout the remainder of the year as required for domestic purposes. Protestants George and Millie Faris divert from Dry Creek approximately five miles downstream from where it originates at the Miners Ravine-Antelope Creek junction. They hold Permit 9476 (Application 15307) for 0.5 cfs from March 1 to November 30 for irrigation purposes. Only protestant George Faris appeared at the field investigation and none of the protestants submitted factual data that would tend to show that approval of Application 21888 would interfere with their use of water under their prior rights.

6. Measurements taken by engineers of the Board during the year 1961 show large fluctuations in the amount of water that is available in Secret Ravine during the irrigation season. On May 4, 1961, flow in the ravine at the Loomis-Folsom Road was 19.07 cfs and 31.3 cfs near its mouth. Fourteen days later the flow at the same points was 4.30 cfs and 9.6 cfs, respectively. These spot measurements of the flows of Secret Ravine also show that it is a gaining stream and at almost all times water is available in excess of the amounts necessary to satisfy protestants' prior rights. The applicants are able to purchase water from the Pacific Gas and Electric Company which they may use when flow in the stream is insufficient to supply them and the protestants and other holders of prior vested rights.

7. Unappropriated water is available to supply the applicants, 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.

8. The intended use is beneficial.

9. A flow of 0.06 cfs represents an excessive use of water for the irrigation of the applicants' 3-acre parcel. The permit issued on Application 21888 should authorize a diversion of not to exceed 0.04 cfs, which is ample water for such use.

10. Applicants claim a riparian right to the use of water from the unnamed stream. Although most of the water in the unnamed stream during the applicants' diversion season is water from foreign sources, there may be some water to which the applicants may be entitled under claim of riparian right. The permit should contain a term stating that upon a judicial determination that the place of use under the permit or a portion thereof is entitled to water by riparian right, the right so determined and the right acquired under the permit shall not result in a combined right to the use of water in excess of that which could be claimed under the larger of the two rights.

From the foregoing findings, the Board concludes that Application 21888 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: Applications 21888, 21171, 15307, 12455 and 7646 and all relevant information on file therewith, particularly the reports of the field investigations made on November 23, 1966, and on September 5, 1967; U. S. Geological Survey, 7.5 minute quadrangles, Rocklin and Roseville; and State Water Rights Board Decisions D 1165 and D 1222.

ORDER

IT IS HEREBY ORDERED that Application 21888 be, and it 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 water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 0.04 cubic foot per second by direct diversion to be diverted from about April 1 to about October 31 of each year. The equivalent of such continuous flow allowance for any 30-day period may be diverted in a shorter time if there be no interference with vested rights.
2. The maximum quantity herein stated may be reduced in the license if investigation warrants.
3. Actual construction work shall begin on or before September 1, 1968, and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked.

4. Construction work shall be completed on or before December 1, 1970.

5. Complete application of the water to the proposed use shall be made on or before December 1, 1971.

6. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the State Water Resources Control Board until license is issued.

7. 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 Resources Control 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.

8. Permittee shall allow representatives of the State Water Resources Control 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.

9. Upon a judicial determination that the place of use under this permit or a portion thereof is entitled to the use of water by riparian right, the right so determined and the right acquired under this permit shall not

result in a combined right to the use of water in excess of that which could be claimed under the larger of the two rights.

Adopted as the decision and order of the State Water Resources Control Board at a meeting duly called and held at Sacramento, California.

Dated: JAN 4 1968

/s/ George B. Maul
George B. Maul, Chairman

/s/ W. A. Alexander
W. A. Alexander, Vice Chairman

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

/s/ Norman B. Hume
Norman B. Hume, Member

/s/ E. F. Dibble
E. F. Dibble, Member