

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 22019)
of Robert D. and Dianne A. Fenton)
and Melvin E. and Lucille L. Fenton)
to Appropriate from Williams Gulch)
in Siskiyou County)

Decision D 1273

DECISION APPROVING APPLICATION IN PART

Application 22019 of Robert D. Fenton et al. having been filed; protests having been received; a public hearing having been held before the State Water Rights Board on June 29, 1966, conducted by Board Member W. A. Alexander; applicants and protestants having appeared and presented evidence; the evidence received at the hearing having been duly considered; the Board finds as follows:

1. Application 22019 is for a permit to appropriate 0.125 cubic foot per second by direct diversion from January 1 to December 31 of each year for domestic and irrigation purposes from Williams Gulch in Siskiyou County. The point of diversion is to be located within the SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 4, T46N, R11W, MDB&M.

2. Williams Gulch heads just above the applicants' point of diversion on the west side of Johnny O'Neal Ridge

at an elevation of approximately three thousand feet. It flows approximately 1.25 miles from the applicants' point of diversion to enter Seiad Creek. Williams Gulch is fed by springs that are located just off the applicants' property. During the hearing, Application 22019 was amended to show Williams Gulch as the source rather than the unnamed springs.

3. Application 22019 is to cover diversion of water through a system that has been in use for a number of years. The water is used for the irrigation of eight acres of orchard and pasture and at a cabin. The irrigation season for this locality commences as early as April 1 (Report on Water Supply and Use of Water on Seiad Creek Stream System, Seiad Creek Adjudication, by Division of Water Resources, dated November 1947).

4. Protestant W. M. Matlock is on Williams Gulch approximately one mile below the applicants. He uses the water from the gulch at a house and garden and for mining purposes under claim of pre-1914 and riparian rights. In past years there have been occasions when there has not been sufficient water to meet his needs. The shortages have occurred during the months of June, July, August, and September (RT 37).

Protestant Walter W. Robinson, Jr., just below him, irrigates approximately 15 acres of pasture from Williams

Gulch under claim of riparian right. There has been little or no water available to him from the latter part of July until the latter part of October (RT 48).

5. Protestant Fred C. Jensen, located on Seiad Creek approximately three miles below its junction with Williams Gulch, uses the water from the creek for irrigation of approximately 182 acres under adjudicated rights. He uses all of the water available at his point of diversion from July 1 until the winter rains.

6. Unappropriated water is available to supply the applicants only during the months of January through June, November, and December. 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. A permit for a reduced diversion season is of value to the applicants (RT 52).

7. The intended use is beneficial.

From the foregoing findings, the Board concludes that Application 22019 should be approved in part 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 22019 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 0.125 cubic foot per second by direct diversion to be diverted as follows: (a) from about April 1 to about July 1 of each year for domestic and irrigation purposes, and (b) from about November 1 of each year to about April 1 of each succeeding year as required for domestic purposes. 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. Complete application of the water to the proposed use shall be made on or before December 1, 1970.

4. 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.

5. 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.

6. Permittee shall allow representatives of the State Water Rights 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.

7. 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 Rights Board at a meeting duly called and held at Sacramento, California.

Dated: **MAY 11 1967**

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

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

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