

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 21758
of Abram Sandage to Appropriate
from Lower Blue Lake in Lake County

Decision D 1277

DECISION APPROVING APPLICATION

Abram Sandage having filed Application 21758 for a permit to appropriate unappropriated water; a protest having been received; the applicant and protestant 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 pursuant to said stipulation; the Board, having considered all available information and now being fully advised in the premises, finds as follows:

1. Application 21758 is for a permit to appropriate 0.1 cubic foot per second by direct diversion year round for domestic purposes from Lower Blue Lake in Lake County. The point of diversion is to be located within the SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 8, T15N, R10W, MDB&M.

2. Lower Blue Lake is located on an unnamed stream approximately one mile above the stream's confluence with Scotts Creek. Scotts Creek continues in a general southeasterly direction approximately six miles to enter Clear

Lake. The applicant plans to pump from the northeast side of Lower Blue Lake through approximately 2,000 feet of pipe to a regulatory tank for domestic use at approximately 40 cabins to be constructed and for the irrigation of small orchards at the cabin locations. He claims a riparian right to use water from Lower Blue Lake on the place of use.

3. On February 14, 1967, at the time of the field investigation on Application 21758, there were approximately four cubic feet per second flowing out of Lower Blue Lake into Scotts Creek. The lake usually stops spilling around the first of September.

4. Protestant Yolo County Flood Control and Water Conservation District (hereinafter referred to as "the District") holds Permits 12848, 12849, and 12850 and claims pre-1914 appropriative rights covering direct diversion of water from Cache Creek and storage at Clear Lake. The District includes all of the service area of the Clear Lake Water Company, which also claims pre-1914 appropriative rights to divert directly from Cache Creek and store in Clear Lake. The District is negotiating for purchase of the assets of the Clear Lake Water Company. Water stored in Clear Lake by the company is released into Cache Creek and diverted into the company's canal at Capay Dam approximately 70 miles downstream from Clear Lake for use in the District. The water covered by Application 21758, due to the filling and spilling of Lower Blue Lake, is a portion of the supply available to the protestant at Clear Lake.

5. By court decree in M. M. Gopcevic, et al, v. Yolo Water and Power Company, et al., Superior Court, Mendocino County, Clear Lake Water Company is required to maintain a level at Clear Lake between certain limits to protect the rights of littoral owners. From 1921 through 1964, water surplus to the needs of the company was released from the lake for the purpose of complying with this decree in 26 years, or 59 percent of the time. Such water is subject to appropriation by the applicants.

6. The intended use is beneficial.

7. To adequately protect the protestant, the permit should contain a term prohibiting diversion under the permit until the permittee has filed evidence satisfactory to the Board that he has undertaken to reimburse Clear Lake Water Company or its successor, either by direct payment of money or exchange of water, for water diverted under the permit that is not surplus to the entitlements of the company under its prior rights, and the transaction has been approved by the Public Utilities Commission, if approval is required.

From the foregoing findings, the Board concludes that Application 21758 should be approved and that a permit should be issued to the applicant 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: Application 21758 and all relevant information on file therewith, particularly the report of the field investigation made February 14, 1967, and Board's Decisions D 931 and D 1257.

method of diversion of said water.

8. 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.

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.

10. No diversion shall be made under this permit until the permittee has filed with the Board evidence satisfactory to the Board that he has undertaken to reimburse the Clear Lake Water Company or its successor, either by direct payment of money or exchange of water, for all water diverted under this permit that is not surplus to the entitlements of the company under its prior rights and that the transaction has been approved by the Public Utilities

Commission, if approval is required.

Adopted as the decision and order of the State Water Rights Board at a meeting duly called and held at McCloud-Pit Camp, California.

Dated: July 6, 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

ORDER

IT IS HEREBY ORDERED that Application 21758 be, and it is, approved, and that a permit be issued to the applicant 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 0.1 cubic foot per second by direct diversion to be diverted year round.

2. The maximum quantity herein stated may be reduced in the license if investigation warrants.

3. Actual construction work shall begin on or before June 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 Rights 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 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