

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

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In the Matter of Application 15549 by Leroy L. Black, Sr.,  
Mae K. Black, Cecil Black and Soledad A. Tabanera to  
Appropriate Water from Secret Ravine, Tributary to Miners  
Ravine in Placer County for Irrigation and Stockwatering  
Purposes.

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Decision A 15549 D 824

Decided March 14, 1955

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In Attendance at Investigation Conducted by the Division of  
Water Resources on September 20, 1954:

Cecil Black	Representing the applicants
Joe Boisa	Protestant
Ervin O. Pekuri	Protestant
Ruben Ruhkala	A downstream user
A. Dominguez	An interested party
K. L. Woodward Associate Hydraulic Engineer Division of Water Resources Department of Public Works	Representing the State Engineer

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ORDER

General Description of the Project

The application initiates an appropriation of 0.125 cubic foot per second from May 1 to October 30 of each year from Secret Ravine, tributary via Miners Ravine, Linda (Dry) Creek and Natomas East Main Drainage Canal to Sacramento River. Diversion is to be effected by pumping from the unobstructed channel at a point within the NW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 15, T11N R7E, MDB&M, in Placer County. The water is wanted for irrigation and stockwatering purposes. The diversion works are to be of a capacity of 200 gallons per minute. The land to be irrigated is a pasture 9 acres in extent, located in the same quarter-quarter section as the proposed point of diversion. The water is to be applied by means of a portable sprinkler system. According to the application the land to be irrigated has no other water right or source of water supply than as sought under the application. The applicants assert that they own both the land at the proposed point of diversion and the land upon which the water is to be used.

Protests

Ervin and Polly Pekuri protest the application, their protest containing statements as follows:

"We have approximately 3 acres of irrigated pasture, garden, lawn which have suffered from lack of water several times during the past irrigation seasons and any further diversions would result in permanent damage."

"Protestant claims a right ... based upon Application No. 13075 ...."

" ... present and past use of water ... irrigation, domestic and stockwatering. Sprinkler irrigation system. Irrigation season May 1 to September 30."

" ... diversion point ... NE $\frac{1}{4}$  of SW $\frac{1}{4}$  of Section 20, T11N R7E, MDB&M ...."

Joe Boisa protests the application, indicating that he irrigates 40 acres of green feed from April to November under "water right 7646" by a diversion heading at a point within the SW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 20, T11N R7E, MDB&M. He objects to the proposed appropriation because, he states, "The creek has gone dry in the last few years during the first part of July".

William F. Hacker protests, stating:

"I have 30 acres of irrigated pasture and 40 head of cattle to water and there will not be enough water for ... that if Application No. 15549 uses that much water."

"Protestant claims a right ... based upon Application 12455...."

"The extent of ... use ... May 15, 1948, 0.5 cubic foot. Water is used from May 15 to November 1 each year to irrigate 30 acres of pasture and water 40 head of cattle."

Protestant Hacker states further:

"This protest may be disregarded and dismissed if there is enough water for Application 12455. But

if there is not enough water Application 15549 will have to stop using the water."

### Answers

The applicants state in answer to the protests as follows:

#### In answer to the Pekuri protest

"It is the opinion of the applicants ... that subject application will not cause injury to application 13075, as protested.

"It has been noted, for at least in the past three years, that there has been sufficient water for adults and children to swim during the summer at the location the above applicants propose to withdraw water, without artificial damming. It is known that numerous people are pumping water from Secret Ravine tributary without vested rights or without having made application with the State Division of Public Works.

"A survey by the State Engineer would, no doubt, reveal there is sufficient water for all present water users who possess vested rights or have applied for water rights through the State Department of Public Works."

#### In answer to the Boisa protest

"... we wish to state that yours is the first that allowed any conditions, whatever.

"We would be willing to purchase water from the P.G.E. and have said water diverted to Secret Ravine tributary if this would dissolve your protest.

"It is also realized that we will not be the last ones to apply for water from this tributary.

"We would like to propose that the people of this area form a water district, and obtain sufficient water for all land in this area. If this

is not acceptable, present our problems to the State Engineer for further study, and a possible solution.

"If you will send a commonly known location of your residence, we will be very willing to talk this matter over verbally."

The answer to the Hacker protest is identical with the answer to the Pekuri protest except that it also states:

"If it was proven that application 15549 was the only cause of applicant 12455 not receiving sufficient water, the applicants of 15549 would be willing to reduce their demands."

#### Field Investigation

The applicants and the protestants with the approval of the Division having stipulated to the submittal of the application and protests upon the official records of the Division, a field investigation was conducted on September 20, 1954, by an engineer of the Division. The applicants and the protestants except Protestant Hacker were present or represented during the investigation.

#### Records Relied upon

Applications 7646, 11740, 12455, 13075, 15318, 15383, 15384, 15549 and all data and information on file therewith; Auburn Quadrangle, United States Geological Survey.

Information Secured by Field Investigation

Extracts from the report covering the field investigation are as follows:

"A conference was held at the applicants' place and their project was inspected. In view of the lateness of the irrigation season and the apparent abundance of water at that time, no purpose could be seen in visiting the protestants' projects. Later in the day an unaccompanied cursory inspection of the watershed was made."

"Secret Ravine begins immediately south of the town of Newcastle and drains in a southwesterly direction 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 and rather extensively developed agriculturally, with the primary crops being orchard and permanent pasture."

"As typical of most streams in the foothill area, Secret Ravine flows a considerable quantity during periods of precipitation but diminishes rapidly thereafter."

"It was the opinion of the parties present that normally by June 1 of each year there is no natural flow in the ravine and for the remainder of the irrigation season the channel serves only as a carrier for return water from upstream irrigation and for spillage and waste water from the many ditches and conduits of the Pacific Gas and Electric Company serving irrigation water to the area. Mr. Pekuri stated that he is a ditch operator for that utility and that he knew personally of two waste-ways from its ditches into the ravine below Newcastle. The writer also noted spillage in the order of about 3 cfs in Newcastle. 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 the P.G. & E. Co., and that the extent of spillage is dependent upon the supply available at the source, climatic conditions and the immediate needs of the many

subscribers. The protestants conceded that shortages are experienced only during June, July and August and that such shortages are only intermittent. Mr. Pekuri stated that the flow entirely ceased for one day during the 1954 season at his point of diversion but that in 1951 there was no flow for a period of two weeks."

"During the investigation, flow of Secret Ravine at the county bridge due east of Rocklin was determined by float measurement to be about 6 cfs."

"The applicants purchased the proposed place of use in 1950 and apparently were led to believe that ample water was available. However, neither a well nor a large sump existing on the property provided an adequate supply and they were forced to look elsewhere for water. The sump is an impressive excavation of granite rock about 80 feet in diameter and about 30 feet deep. There is apparently no underground water flowing into or out of the hole. However, Mr. Black stated that it fills annually from winter rains. Water was standing about 13 feet below ground level and a small electric pump had been installed to divert this supply for irrigation of a limited area around his residence."

"Developments by protestants Boisa and Pekuri under their appropriations may be considered complete with use being allegedly for the irrigation of 20 acres and 2½ acres of pasture, respectively. Definite information regarding use by William F. Hacker under Application 12455, License 3690 was not obtained. Existence of license, however, indicates that development and use are complete. Mr. Ruhkala reported that under his Application 15218, Permit 9557 he has only irrigated 9 acres, which use started only about two weeks prior to the investigation. The additional land covered under the permit is to receive attention at some future date. No development has been started by Union Granite Company under Application 15383, Permit 9559 and Application 15384, Permit 9560."

"From the information adduced at the investigation it appears that a considerable number of people divert from Secret Ravine, both above and below the applicants, without the benefit of a permit or license from the

Division. Although this condition has apparently openly existed for some time, there seems to be some rather unconventional ideas among the people in general as to what constitutes a valid water right and no steps have been taken by any of the protestants to have such use restricted during the alleged periods of shortage. Mr. Boisa stated that upon one occasion he had prevailed upon Mr. Hacker to cease diverting but felt secure in such action because of an agreement entered into between Boisa and Hacker at the time Hacker's application was considered."

"At the time of the investigation the flow was an estimated 8.0 cfs at Secret Ravine at applicants' point of diversion whereas according to Mr. Pekuri the flow at his point of diversion ceased entirely for one day during the 1954 irrigation season and for a period of two weeks in 1951."

Information Secured from Files of the Division

Under Application 7646 Permit 4286 License 2463, Joe Boisa may divert 0.12 cubic foot per second, for domestic purposes and irrigation, from April 1 to October 1 of each year and at other times as required for domestic purposes, from Secret Ravine, at a point within the SW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 20, T11N R7E. A report covering an inspection made 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."



A report covering an inspection of the same project on May 5, 1941, states, in part:

"Mr. Boisa advised that flood waters destroy the dam each winter and a new dam is built of earth and rock each spring."

"The entire permit area is regularly irrigated and Mr. Boisa advised that in the month of maximum use the pump is operated 12 hours each day."

Under Application 13075 Permit 7765 License 3460, Ervin O. and Polly Pekuri may divert 0.05 cubic foot per second from May 1 to September 30 for irrigation, domestic and stockwatering purposes, year-round, from Secret Ravine at a point within the NE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 20, T11N R7E. Quotations from the report covering an inspection made of the Pekuri project on June 5, 1951, are as follows:

"At the time of inspection the estimated flow was one cubic foot per second. According to Mrs. Pekuri, in 1950 flow ceased for 10 days during August and after that there was little surface flow until the rains came in October."

"The average rainfall is 20 inches."

"During the irrigation season, which extends from May 1 to September 30 permittee pumps 8 hours per day, 30 days per month."

Under Application 11740 Permit 6832 Joseph Galletto may divert 0.25 cubic foot per second from April 1 to October 15 for irrigation from Secret Ravine at a point within the SE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 17, T11N R7E. In a memorandum covering a field visit on July 27, 1954, it is stated:

"Estimated flow in Secret Ravine 100 gallons per minute."

Under Application 15318 Permit 9557, Ruben J. Ruhkala may divert 0.5 cubic foot per second from April 1 to November 30 for irrigation purposes from Secret Ravine at a point within the NE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 20, T11N R7E. According to Progress Report for 1954, water was used in September and October of 1954 in irrigating 10 acres of permanent pasture.

Under Application 15383, Permit 9559, Union Granite Company may divert 0.025 cubic foot per second year-round, for mining purposes, from Secret Ravine at a point within the SW $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 10, T11N R7E and under Application 15384 Permit 9560 the same permittee may divert 0.31 cubic foot per second from the same source at the same point, from April 1 to November 30 of each year, for irrigation. According to progress reports for 1954 use of water under these two filings has not as yet started.

Under Application 12455 Permit 7372 License 3690 William F. Hacker may divert 0.31 cubic foot per second from May 15 to October 15 of each year for domestic and stockwatering purposes, from Secret Ravine, at a point within the NE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 16, T11N R7E. Extracts from a report covering an inspection of that project made on April 16, 1952, are as follows:

"Use of water has extended from about May 15 to about October 15."

"The source ... is Secret Ravine whose summer flow is largely waste water from lands of upstream irrigators who purchase water from the Pacific Gas and Electric Company."

"Permittee stated flow in 1951 was ample for his needs except during the month of August when the Pacific Gas and Electric Company cut their releases in this area."

"Estimated flow at time of visit was 5 cubic feet per second which permittee stated was about double the flow for same period last year."

"Permittee stated pump ran continuously 24 hours per day during the season."

Distances downstream from the applicants' proposed point of diversion to the points of diversion of the appropriators above mentioned scale approximately as follows:

Name	Application number	Distance (miles)
Black, et al.	15549	0
Hacker	12455	0.6
Galletto	11740	1.7
Boisa	7646	2.2
Pekuri	13075	2.5
Ruhkala	15318	2.6
Union Granite Co.	15383) 15384)	3.1

### Discussion

Representations by the protestants that flow is sometimes deficient are not indications that unappropriated water does not at times exist. Protestant Boisa's statement that his pump operates 12 hours per day in the month of maximum use suggests that during the other 12 hours of each day flow passes his point of diversion unused; likewise, the Pekuris' statement that their pump operates 8 hours per day is an indication that flow passes their point of diversion unused some two-thirds of the time. Flow passing the intakes of these lowermost protestants may be supposed to be subject to appropriation.

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 nearby Pacific Gas and Electric Company ditches and is therefore erratic and uncertain. Occasional observations of flow by investigators -- 5 cubic feet per second on April 16, 1952, 1 cubic foot per second on June 5, 1951, 100 gallons per minute on July 27, 1954, 1 cubic foot per second on September 11, 1936, 8 cubic feet per second at one point and 6 cubic feet per second at another on September 20, 1954 - support an inference that some flow usually exists in excess of apparent demand.

Statements such as those of the protestants during the investigation of September 20, 1954, to the effect that shortages occur only during June, July and August and that such shortages are only intermittent, support the same inference.

The "sump" on the applicants' property, reported by the investigator as being 80 feet in diameter by about 30 feet deep and therefore capable of storing some 3.5 acre-feet, employed as a regulating reservoir, should enable the applicants to effectively utilize such excesses of flow over downstream needs as seem often to occur.

#### Conclusion

The available information relating to the application and protests points to the conclusion that the flow of the source 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 this office that the protestants' objections are not based upon reasons sufficient to bar the approval of Application 15549 and that that application should therefore be approved and permit issued, subject to the usual terms and conditions.

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ORDER

Application 15549 having been filed with the Division of Water Resources as above stated, protests 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 15549 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 14th day of March 1955.



A. D. Edmonston  
A. D. Edmonston  
State Engineer