

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 15910 by Susie I. Ross to Appropriate
Water from an Unnamed Stream Tributary to Secret Ravine, in Placer
County, for Irrigation Purposes.

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Decision A 15910 D 835

Decided September 7, 1955

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In Attendance at Investigation Conducted by the Division of Water
Resources on July 26, 1955:

W. E. Ross

Applicant's husband

K. L. Woodward
Senior Hydraulic Engineer
Division of Water Resources
Department of Public Works

Representing the State
Engineer

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DECISION

General Description of the Project

The application initiates an appropriation of 0.5 cubic
foot per second from May 1 to October 31 of each year from an

unnamed stream, tributary to Secret Ravine, in Placer County. The water is to be diverted at a point within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 17, T11N R7E, MDB&M, and utilized in irrigating 42 acres of nearby pasture. Diversion is to be effected by pumping, conveyance and distribution by portable sprinkler system. According to the application the applicant has no other water right or source of water supply, owns both the diversion site and place of use.

Protest

Blanch Schaw protests the application, stating that the proposed source carries very little water in summer, that the amount that the applicant seeks "is out of all proportion" to summer flow, that protestant holds Application 13727 and irrigates 4 acres of clover thereunder when supply permits, by means of a diversion heading within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 20, T11N R7E, MDB&M.

Answer

In answer to the protest the applicant states that on numerous trips past the protestant's place during the last three irrigation seasons no signs of extensive irrigation were observed. The applicant asks, "Why protest if she is not using the water?"

Field Investigation

The applicant and the protestant with the approval of the Division having stipulated to the submittal of the application and protest upon the official records of the Division, a field

investigation was conducted on July 26, 1955. The applicant was represented during the investigation. The protestant, while notified as to the pendency of the investigation was not in attendance and was not represented.

Records Relied Upon

Applications 13727 and 15910 and all data on file therewith.

Information Secured by Field Investigation

The report covering the field investigation of July 26, 1955, contains among other statements the following:

"The investigation included an inspection of the applicant's proposed project, protestant's property insofar as it relates to the stream in question, and a reconnaissance of the stream from its head to its junction with Secret Ravine."

"The source ... is an unnamed stream which heads in the Sierra Nevada foothills approximately 1 mile northeast of ... Loomis and flows in a southwesterly direction about 5 miles to a junction with Secret Ravine near the southeast corner of Section 19, T11N R7E, MDB&M, near ... Rocklin."

"The stream drains an area which is less than 500 feet above sea level which receives rainfall normally only during the late fall, winter, and early spring months, and no snowfall."

"The general area is of a granitic formation and very few wells have proven sufficiently successful for an irrigation supply. Thus the major portion of the entire water supply is obtained through the distribution system of Pacific Gas and Electric Company which is derived primarily from storage in the upper watershed. A flow of 0.42 cfs was passing the applicant's proposed point of diversion at the time of investigation The major portion of this flow was reaching the stream through an overflow pipe in a small regulatory reservoir located on a ranch ... in the SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 4, T11N R7E, MDB&M. ... (said) supply was coming from the (Pacific Gas and Electric) Company's system."

Other water noted reaching the source was from a large pear orchard to the north of the (ranch mentioned) and from (a nursery) in Section 17 of the same township. On September 20, 1954, the writer measured a flow of 0.80 cfs immediately above the applicant's place."

"According to Mr. Ross the flow of water in the source fluctuates considerably during the irrigation season depending upon the activities upstream. He stated that he had lived on the ranch for 28 years and although years ago the flow would get extremely low, the supply during the past three years has been considerably better. He insisted that thus far this year the flow has never been less than the amount measured on July 26, 1955, namely 0.42 cfs, and that the minimum flow during the past three years has not been less than about 10 miner's inches. Mr. Ross' statements were fairly well substantiated through separate interviews of a Mr. Alexson and a Mr. Tate, local residents who have no direct interest in the stream and were not advised of the purpose of the inquiry."

"Although the flow will reach Secret Ravine if of sufficient quantity, it is extremely doubtful that the Ravine receives any contribution from the source after the beginning of the irrigation season. An abandoned granite quarry of about 150 feet in diameter (unknown depth) is located on property of John Ewen and Eva Sacchi in the SE $\frac{1}{4}$ of Section 19, T11N R7E, MDB&M, and the natural channel of the unnamed stream passes within 15 feet of the quarry periphery on the west. The entire flow was being diverted into the quarry. Water was being diverted therefrom by means of a 2-inch centrifugal pump and used through a portable sprinkler system for the irrigation of possibly 30 acres of clover on the Ewen and Sacchi ranch. The clover is in excellent condition, indicating that use of water thereon has been liberal. Water level in the quarry was about 12 feet below ground surface and overflow, when (it) occurs, is back into the unnamed stream."

"No diversion of water from the source for irrigation purposes has been made in recent years by the applicant. Stock on the ranch has always had access to the stream, and Mr. Ross stated that up until about four years ago he had irrigated from 8 to 10 acres of pasture. He indicated that they are reluctant to incur the expense of a diversion system and to prepare additional land for irrigation unless the Division acts favorably on the application. It is the writer's belief that 42 acres as indicated in the application is the maximum area which could be developed."

"An abandoned dredger pit of about one-half acre surface area and about 25 feet deep is situated on the applicant's

property near the described point of diversion. If the application is allowed, water will be diverted by gravity into the pit for regulation and rediverted by pump and portable sprinkler system. The applicant has no other convenient supply of irrigation water."

"Protestant Blanch Schaw has to date apparently made no diversion or use of water from the source."

"... the tract owned by Mrs. Schaw is 8.92 acres. Of this amount only about 3 acres appear irrigable."

"A granite quarry of about 1/4 acre in surface area, which was said by Mr. Tate to be 70 feet deep, is also situated on the Schaw property. At the time of investigation the water level in the quarry was about 2 feet below overflow level. Water has been diverted from the quarry in previous years by means of a 2-inch centrifugal pump to irrigate trees and flowers around the quarry but no diversion has been made thus far this season. This system is also arranged to deliver water to the place of use under Permit 8185 (Schaw)."

"The only use of water noted on July 26, 1955, from the source was that of the Ewen and Sacchi ranch previously mentioned. Mr. Alexson, who operates the sprinkler system during the daytime, advised that use of water on the ranch has been made only for about the past three years and that prior to that time the ranch was unirrigated. There is no apparent use of water from the source upstream from the applicant."

"In view of the foreign origin of the water available in the unnamed stream it is extremely doubtful that use thereof during most of the irrigation season can legally be made under claim of riparian right. Therefore the only right needed to be considered is appropriative. No water obviously reaches Secret Ravine after the Ewen and Sacchi ranch commences diversion. The quarry on the Ewen and Sacchi ranch had been drawn down an estimated 12 feet up to the investigation on July 26, 1955. The water level in a quarry of about the same dimensions on protestant Schaw's property had dropped about 2 feet by natural means during the same period. Therefore, it is concluded that the difference in water levels of the two quarries is that amount extracted by Ewen and Sacchi ranch for irrigation (possibly 5 acre-feet) and the remaining supply needed to maintain the clover on that ranch was obtained from the flow of the stream. In the absence of any apparent right of Ewen and Sacchi ranch to the use of the summer flow, that amount in excess of the right of protestant Schaw would appear to be unappropriated water."

Information from Division Files

Under Application 13727 Permit 8185 Blanch Schaw may divert, year-round, for irrigation and stockwatering purposes at a point within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 20, T11N R7E, MDB&M, on the same unnamed stream as the one from which Applicant Ross seeks to appropriate. The amounts Permittee Schaw may divert under Permit 8185 are up to 0.13 cubic foot per second, for irrigation and domestic purposes (stockwatering), between about April 1 and about November 1 (or a variable flow averaging over any 30-day period included between those dates no more than 0.13 cubic foot per second) and, at other times, such lesser amounts as are required for domestic purposes. The time within which to apply the water to complete beneficial use under Application 13727 Permit 8185 has been extended to December 1, 1957. In her progress report for the year 1944, Permittee Schaw states that her project has not been abandoned, that she has accomplished certain construction, that during 1944 she irrigated one-half acre, that water supply was limited, that all livestock were sold because of insufficient water to maintain pasture, that use will be full and complete when sufficient water becomes available. In earlier progress reports this permittee mentioned no water shortage, stated that 7 acres of pasture had been irrigated in 1952, about 5 acres in 1953.

The records of the Division reveal several appropriations from Secret Ravine above the junction of the unnamed stream with that channel but there appear to be no appropriations from Secret Ravine below that junction.

Distances upstream along the unnamed stream from the junction thereof with Secret Ravine to the Ewen-Sacchi diversion, the Schaw diversion and the applicant's proposed point of diversion scale respectively about 0.3 mile, 0.8 mile and 1.3 miles.

Discussion

Since according to the report of field investigation the flow of the unnamed stream during the period when the applicant seeks to appropriate consists ordinarily of wastage or leakage from a nearby distribution system and/or return flow from upstream irrigation, water may seldom if ever be diverted lawfully at that season, from said unnamed stream, except under an appropriative right. Protestant Schaw has such a right, although diversions thereunder are limited by the terms of her permit to amounts not averaging in excess of 0.13 cubic foot per second over any 30 day period. Diverters Ewen and Sacchi appear not to hold an appropriative right, consequently their diversion is not a bar to the approval of an application to appropriate at some point above them.

The investigator's statements that 0.42 cubic foot per second were passing the applicant's proposed point of diversion on June 26, 1955 and that flow immediately above the applicant's place on September 20, 1954 measured 0.80 cubic foot per second, together with the statements attributed by the investigator to Messrs. Ross, Axleson and Tate, indicate that flow exists at times in amounts well in excess of Protestant Schaw's right, which, apparently, is the only valid appropriative right on the reach of the unnamed stream under consideration.

Conclusion

From the available information it is concluded that unappropriated water exists at times at the point at which appropriation is sought under Application 15910, that such water may be taken and used beneficially in the manner proposed without conflict with any valid downstream right and that the protest against the application is insufficient to warrant the latter's denial. In view of these conclusions it is the opinion of this office that Application 15910 should be approved and permit issued, subject to the usual terms and conditions.

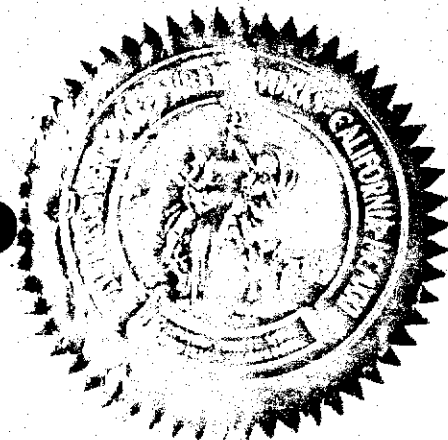
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ORDER

Application 1590 having been filed with the Division of Water Resources as above stated, a protest 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 15910 be approved and that a permit be issued to the applicant, 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 7th day of September 1955



A. D. Edmonston

A. D. Edmonston
State Engineer