

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 16548)
by Frederick Monhoff and Hildegarde Monhoff) Decision No. D 926
to appropriate from Nash Creek in Napa)
County)

Substance of the Application

Application 16548, filed August 25, 1955, by Frederick and Hildegarde Monhoff, is for a permit to appropriate 0.025 cubic foot per second by direct diversion, year-round; and 0.05 acre-foot per annum by storage to be collected between January 1 and April 1 of each season in an offstream reservoir at a rate of diversion thereto of 0.025 cubic foot per second. The source of water is Nash Creek tributary to Napa River in Napa County. The point of direct diversion and diversion to offstream storage is to be located within the SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of fractional Section 8, T8N, R6W, MDB&M*. Water is desired for domestic purposes and for irrigation of three acres of general crops.

* All legal descriptions of lands herein are referenced to Mount Diablo Base and Meridian (MDB&M).

Protest and Answer

Charles B. Forni, Teressa Forni, Alfred F. Forni, and Carlo J. Forni protest the application alleging in effect that approval thereof will impair and diminish the water supply presently beneficially used by them for domestic, irrigation, recreational, and fire protection purposes under claim of riparian rights and appropriative rights initiated prior to December 19, 1914, and that there is insufficient water in Nash Creek other than during periods of heavy rainfall to supply their needs. According to the protest their point of diversion is located within the SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 8, T8N, R6W.

In answer to the protest, the applicants state in substance that there is unappropriated water available in Nash Creek; that over a period of years they have always found running water in the source; that they inspected the source during August, 1955, and observed that the protestants were diverting all available surface flow, which was estimated by the applicants to be approximately eight miner's inches; that during March, 1955, the applicants observed the source and found considerable flow wasting below the protestants' intake works; and that the year 1955 may be considered a below-normal year of water supply.

Field Investigation

Applicants and protestants, with the approval of the State Water Rights Board, stipulated to proceedings in lieu of hearing as provided for under Section 737 of the Board's rules, and a field investigation was conducted on October 8, 1956, by J. V. Scammon, an engineer for the Board. The applicants and

protestants were present or represented at the investigation. Subsequently, engineers for the Board made measurements and observations of the flow of Nash Creek on May 1, 1957, and January 14, July 3, September 5, and October 16, 1958. (See Page 5)

Records Relied Upon

The records relied upon in support of this decision are Application 16548 and all relevant information on file therewith, with particular reference to the report of field investigation made on October 8, 1956, by Engineer Scammon; memoranda of subsequent observations of stream flow of Nash Creek; United States Geological Survey Calistoga quadrangle, 15-minute series, edition of 1945; United States Weather Bureau, Climatological Data.

Description of Watershed

According to the Calistoga quadrangle, Nash Creek is an intermittent stream rising within the NW $\frac{1}{4}$ of Section 17, T8N, R6W, on the northeastern slope of Diamond Mountain of the Coast Range near the Napa-Sonoma County line and flowing northeasterly for a distance of about three miles to its confluence with Napa River. The watershed ranges in elevation from about 2,100 feet at its highest point to about 300 feet on the floor of Napa Valley and has a drainage area of about one square mile. Annual precipitation is about 35 inches. The report of field investigation indicates that the watershed has a moderate to heavy covering of brush and trees, a portion of which has been recently logged. The applicants' proposed point of diversion is located about 1.5 miles upstream from the junction of Nash Creek and Napa River.

The protestants divert at a point about 500 feet downstream from the applicants, and convey water to their place of use which borders State Route 29 on the southwest. State Route 29 crosses Nash Creek about 0.75 miles upstream from its mouth.

Water Supply

According to the report of field investigation, Engineer Scammon was advised by parties familiar with Nash Creek that the flow reaches State Route 29 only during periods of heavy rainfall and for a short time during the early spring. Mr. Scammon observed the presence of unirrigated land of apparently good quality below the highway which could be easily irrigated by gravity which would seem to substantiate that insufficient water reaches that area to warrant any irrigation development. The report further indicates that the flow of Nash Creek at the time of the investigation on October 8, 1956, was about 0.04 cubic foot per second (about 18 gallons per minute) all of which was diverted by the protestants; that this flow is approximately the average amount used on the protestants' property; that the protestants' use of water consists of domestic use at three residences and the irrigation of about three acres of lawn and shrubs; and that the use being made appears to be the maximum use that can be supported by the available flow of Nash Creek during July, August, and September. Observations of the flow of Nash Creek during 1958 are as follows:

<u>Date</u>	<u>Place</u>	<u>Amount</u>
1/14/58	Highway crossing	0.20 cfs
7/3/58	Above protestants' diversion	20 gpm
7/3/58	Below protestants' diversion	No flow
9/5/58	Above protestants' diversion	12 gpm
9/5/58	Below protestants' diversion	No flow
10/16/58	Above protestants' diversion	8 gpm
10/16/58	Below protestants' diversion	No flow

Precipitation in the area has been measured for a period of 66 years at Calistoga, some three miles to the northwest, and for 50 years at Saint Helena, some five miles to the southeast of the Nash Creek watershed. The long-term monthly mean precipitation at these stations as reported in the Annual Summary of 1957 of the Climatological Data of the U. S. Weather Bureau is as follows:

Long-term Monthly Mean Precipitation
(In inches)

	<u>Calistoga</u>	<u>Saint Helena</u>
January	8.21	7.24
February	6.01	6.37
March	5.31	3.97
April	2.46	2.06
May	1.20	0.87
June	0.34	0.28
July	0.02	0.01
August	0.01	0.03
September	0.38	0.29
October	1.99	1.42
November	3.62	3.38
December	6.71	6.23
Annual	36.26	32.15

As previously stated, the available information indicates that the runoff of Nash Creek is dependent upon rainfall and that the flow reaches State Route 29, the lower boundary of the protestants' property, only during periods of substantial

precipitation and for a short period thereafter. Assuming that the regimen of rainfall in the Nash Creek watershed is similar to that recorded at Calistoga and Saint Helena, it is apparent that normally no rainfall of any significance occurs in the watershed during the months of June, July, August and September, and likewise that the supply of Nash Creek water is limited during those months. This conclusion is supported by the observation made on July 3, 1958, which revealed that only 20 gallons per minute was flowing immediately above the protestants' point of diversion.

Although the above tabulation shows that the rainfall is normally greater in October than in May or June, it is highly doubtful that the October rainfall causes significant runoff because of the dryness of the soil mantle of the watershed resulting from the absence of summer rains.

Conclusion

Upon the foregoing information it appears and the Board finds that little or no unappropriated water normally exists in Nash Creek during the months of June, July, August, September and October, and that Application 16548 should be denied insofar as it seeks diversion during that period. For the remainder of the year the Board finds that water is available in Nash Creek for appropriation, and that during this period water may be taken and used in the manner proposed by the applicants without injury to downstream users.

ORDER

Application 16548 for a permit to appropriate unappropriated water having been filed with the former Division of Water Resources, a protest having been filed, stipulations to proceedings in lieu of hearing having been submitted, jurisdiction of the administration of water rights including the subject application having been subsequently transferred to the State Water Rights Board, an investigation having been held by said Board and said Board having considered the available information and now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 16548 be approved in part and that a permit be issued to the applicants subject to vested rights and to the following terms and conditions, to wit:

1. The amount of water appropriated shall be limited to the amount which can be beneficially used and shall not exceed 0.025 cubic foot per second by direct diversion to be diverted from about November 1 of each year to about June 1 of the succeeding year; 0.05 acre-feet per annum by storage to be collected from about January 1 to about April 1 of each year at a rate of diversion thereto not to exceed 0.025 cubic foot per second.

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

3. Actual construction work shall begin on or before June 1, 1959, and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked.

4. Said construction work shall be completed on or before December 1, 1961.

5. Complete application of the water to the proposed use shall be made on or before December 1, 1962.

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 method of diversion of said water.

Insofar as Application 16548 seeks direct diversion between about June 1 and about October 31 of each year the same is hereby denied.

Adopted as the decision and order of the State Water Rights Board at a meeting duly called and held at Sacramento, California, on this 23rd day of January, 1959.

/s/ Henry Holsinger

Henry Holsinger, Chairman

/s/ W. P. Rowe

W. P. Rowe, Member

/s/ Ralph J. McGill

Ralph J. McGill, Member