

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 12850 by James H. Caples, Jr. and Leona M. Caples to Appropriate Water from Maacama Creek Tributary to Russian River in Sonoma County for Irrigation Purposes.

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Decision A. 12850 D. 652

Decided March 24, 1950

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IN ATTENDANCE AT INVESTIGATION CONDUCTED BY THE DIVISION OF WATER RESOURCES AT THE SITE OF THE PROPOSED APPROPRIATION ON NOVEMBER 3, 1949:

Leona Caples	Applicant
Frank Badger	Applicants' representative
J. A. Rachford	Applicants' attorney
Mr. Mosher	Protestant's representative
R. E. Hull	P.G.&E. representative
A. S. Wheeler	Senior Hydraulic Engineer Division of Water Resources Department of Public Works Representing the State Engineer

Protestant John R. Russell was interviewed in Santa Rosa the evening before the investigation.

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General Description of the Project

The project contemplates an appropriation of 0.25 cubic foot per second to be diverted from March 1 to December 1 of each season

from Maacama Creek at a point within the SW $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 17, T 9 N, R 8 W, M.D.B.&M. The water is to be used for the irrigation of 20 acres of Ladino clover located within the same quarter quarter section. Diversion is to be effected by means of a pump, 350 gallons per minute in capacity, drawing directly from Maacama Creek. The conduit is described as a 3 inch pipe line, 800 feet long.

#### Protest

John R. Russell claims a riparian right to divert waters of Maacama Creek. According to his protest the proposed appropriation would result in loss to his land of sufficient water for his 30 acre prune orchard which he claims is subirrigated by water supplied by Maacama Creek. He also claims that two wells serving 4 acres of alfalfa on creek bottom lands would suffer, as well as his supply for household use and for the irrigation of a 3 acre garden. He states that he does not divert directly from Maacama Creek but that the wells from which he pumps are supplied by water percolating from that stream. He describes his diversion point as being located also within the SW $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 17, T 9 N, R 8 W, M.D.B.&M. He states that his protest may be disregarded and dismissed if the applicants will use wells some distance from the creek as he does, with a view to keeping the surface of Maacama Creek at a higher level. It is his feeling that already too much water has been appropriated from Maacama Creek, that his orchard has been damaged and the water in his wells lowered so much that any further appropriation from the same source will necessitate deepening his existing wells, with uncertainty as to whether a sufficient supply could be maintained, even by such measures. He states as one of his main reasons for protesting that no check is made on applicants who have been allotted water in the

past by the Department of Public Works and that in consequence the creek is drained dry at each pumping.

The applicants answer the protest by asserting that the protestant's 30 acre prune orchard is too elevated with respect to Maacama Creek to benefit by subirrigation, and by denying that the proposed appropriation will injure the protestant's wells. They contend that the protestant's allegations are based on mere conclusions and assertions of possibilities and that they are groundless and an insufficient basis for a protest. They agree with the protestant that other applicants on the stream divert more water than was originally allotted to them.

#### Field Investigation

The applicants and the protestant having stipulated to an informal hearing as provided for in Section 733(b) of the California Administrative Code a field investigation was conducted at the site of the proposed appropriation on November 3, 1949 by an Engineer of the Division. The applicants and the protestant were present or represented during the investigation.

#### Records Relied Upon

Applications 11119 and 12850 and all data and information on file therewith.

#### Discussion

Applications to appropriate waters of Maacama Creek filed thus far include the following:

Application 11119 by Alex Young to appropriate 0.31 cubic foot per second for irrigation and stock watering purposes, from April 1 to December 1 of each season at a point within the NE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 17, T 9 N, R 8 W, M.D.B.&M. The application was approved and Permit 6903 issued on September 5, 1947.

According to the latest progress report submitted, use during 1949 consisted of the irrigation of some 8.5 acres.

Application 12525 by John J. and Pearl B. Cornwell to appropriate 0.075 cubic foot per second for irrigation purposes from March 1 to September 30 of each season at a point within the SE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 3, T 9 N, R 8 W, M.D.B.&M. The application was unprotested and Permit 7326 was issued on April 6, 1949.

Application 12850, the application under current discussion.

Application 13161 by Redwood Empire Area Council Camp Fire Girls to appropriate 5000 gallons per day from June 1 to August 30 of each year by direct diversion and 1.5 acre feet per annum by storage collected from June 1 to July 1 of each year, for recreational and domestic purposes, the water to be diverted at a point within the SE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 9, T 9 N, R 8 W, M.D.B.&M. The application was advertised, stands unprotested and is awaiting permit action.

Application 13533 by Charles J. Youngberg to appropriate 0.5 cubic foot per second at a point within the SE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 20, T 9 N, R 8 W, M.D.B.&M. from April 15 to October 15 of each season for irrigation purposes. The application was filed January 9, 1950 and is undergoing initial processing.

During the field investigation in connection with Application 11119 (on May 16, 1947) information was gained by observation and by the questioning of the parties present that total diversions from Maacama Creek (from Alex Young, inclusive, downstream) under conditions as of 1947 averaged as follows:

Young	57 gallons per minute
Taylor	3
Russell	50
Caples	15
Puccinelli	30
Beretta	30
Goodhue	<u>10</u>
Total	195

At the time of the investigation of May 16, 1947 the flow of Maacama Creek just above its confluence with Franz Creek measured 9 cubic feet per second. A flow of that order, it was the opinion of the parties present, would probably taper off to nothing by mid-June and reappear after the first rain, said usually to occur in September. It was the concensus of opinion at that discussion that the channel of Maacama Creek is ordinarily "bone dry" during July and August and that water users at that season are dependent upon underflow.

According to the report of the investigation of November 3, 1949 there was no surface flow on that date either at Protestant Russell's property or at the proposed point of diversion of the applicant Caples. Subsurface flow was however making water available in pools, one of which was considered sufficient to meet the applicants' requirements. According to the same report the protestant stated that there had been no serious shortage of water during 1949 until October 7, by which date however the water level in wells had dropped so much that sufficient water could not be obtained. Later in the season, according to the report, when the applicants pump the water level recedes in the protestant's wells. Those wells are said to be located on an old channel of the creek which however still fills at times of flood. The wells

are said to be 14 feet deep and 23 feet deep, respectively. At the time of the investigation water was 11 feet below ground surface at the first well mentioned, and 15 feet below ground surface at the other.

During the investigation of November 3, 1949 both parties complained of excessive use by upstream user Young. The party mentioned is the permittee under Application 11119. Inasmuch as Permittee Young reported irrigation of but 8.5 acres during 1949 the complaint apparently has little bearing on the matter at issue. Subject to vested rights Permittee Young is authorized under his approved application (which is senior to Application 12850) to divert up to 0.31 cubic foot per second, an amount sufficient to irrigate considerably more than 8.5 acres. Permittee Young appears also to be a riparian owner, as are, apparently, both the Applicants Caples and Protestant Russell, and as such may be supposed entitled to a reasonable share of the natural stream flow whatever that share may be. His operations do not appear to be a determinant in the matter of passing upon Application 12850.

Of the 9 months (March to November, both inclusive) that the applicants Caples propose to divert the protestant has conceded that no serious shortage occurred until October 7. On November 3, 1949 field investigation developed that surface water existed, in the form of pools. The information collected at the investigation of May 16, 1947 is to the effect that shortage occurs during midsummer but is relieved by the first rains, usually in September. From October 7 to November 3 of the year 1949 or at least for a portion of that period it may be supposed that diversion of sub-surface flow by the applicants Caples would have somewhat increased Protestant Russell's pumping lift. However according to Application 12850 the applicants Caples do not contemplate diversion of sub-surface flow, the application stating that the suction intake of

the proposed pump will be suspended in the stream and that a sump box will not be required; furthermore it has become the established policy of the Division that it is not in order for a protestant to insist upon maintenance of water level for the sole purpose of facilitating pumping but that he should yield to the public policy and welfare declared in Section 100 of the State Water Code.

In the light of the above circumstances it is concluded that surpluses usually exist in Maacama Creek and that such surpluses may be taken and used in the manner proposed in Application 12850 without undue injury to other users from the same source. It is the opinion of this office that the application should be approved, subject to the usual terms and conditions.

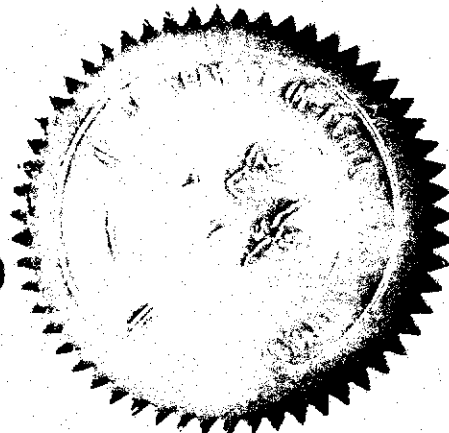
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ORDER

Application 12850 for a permit to appropriate water having been filed, a field investigation having been made, a stipulated hearing having been held in accordance with Article 733(b) of the Administrative Code and the State Engineer now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 12850 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 24th day of March, 1950.



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