

STATE OF CALIFORNIA  
STATE WATER RIGHTS BOARD

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In the Matter of Applications 17480)  
and 17481 of Alfred Sorrenti to )  
appropriate from an unnamed stream ) Decision No. D 939  
in San Joaquin County )

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ADOPTED AUG 27 '59

Substance of the Applications

The applications filed February 26, 1957, by Alfred Sorrenti are for permits to appropriate from an unnamed stream tributary to Gawne Stream thence Lone Tree Creek in San Joaquin County for irrigation purposes as follows:

Application 17480 is for one cubic foot per second to be diverted from April 1 to November 30 of each year. The point of diversion is to be within the SW $\frac{1}{4}$  of SW $\frac{1}{4}$  of Section 36, T1N, R8E, MDB&M\*, and the place of use is to comprise 40 acres within the NW $\frac{1}{4}$  of SE $\frac{1}{4}$ ; 75 acres within the N $\frac{1}{2}$  of SW $\frac{1}{4}$ ; and 5 acres within the SW $\frac{1}{4}$  of SW $\frac{1}{4}$  of said Section 36.

Application 17481 is for one cubic foot per second to be diverted from April 1 to November 30 of each year. The point of diversion is to be within the NE $\frac{1}{4}$  of SE $\frac{1}{4}$  of Section 36, T1N, R8E, and the place of use is to comprise 40 acres within the NE $\frac{1}{4}$  of SE $\frac{1}{4}$  and 80 acres within the S $\frac{1}{2}$  of SE $\frac{1}{4}$  of said Section 36.

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\* Hereinafter reference to lines of the public land survey is from Mount Diablo Base and Meridian (MDB&M).

## Protests

Bill Burgess protests against the approval of Applications 17480 and 17481 and alleges that he would be injured by the loss of crops and pasture because of lack of water; that water from Lone Tree Creek has been used on his property since prior to 1929 for irrigation; and that rights claimed include riparian rights and appropriative rights pursuant to License 2073 issued on Application 6397 in the amount of 1.13 cubic feet per second. Mr. Burgess' point of diversion is located on Lone Tree Creek about 1000 feet downstream from the mouth of Gawne Stream.

Frank Sabatte protests against the approval of Application 17481 and alleges that he would be injured by reason of there being insufficient water in the source to satisfy any new applicant; that there is at times insufficient water to satisfy his rights; that water is used during the spring, summer, and fall for irrigation; and that rights claimed are based upon License 4707 issued on Application 12626 in the amount of 0.9 cubic foot per second. Mr. Sabatte's point of diversion is located on Gawne Stream about two miles downstream from the confluence of the source with Gawne Stream.

## Answers to Protests

In reply to the protest of Bill Burgess, the applicant states that he does not intend to infringe upon protestant's rights; that in view of the fact that more and more land is being leveled and irrigated, drainage water flowing into Lone Tree Creek should increase.

No reply to the protest of Frank E. Sabatte has been received.

#### Field Investigation

Applicant and protestants, with the approval of the State Water Rights Board, stipulated to the proceedings in lieu of hearing as provided for under Section 737 of the Board's rules. On June 24, 1958, a field investigation was conducted by J. V. Scammon and Arthur N. Webb, engineers on the staff of the Board. Applicant Sorrenti was present at the investigation and Protestant Burgess was interviewed later on the same day. Protestant Sabatte was interviewed on July 1, 1958, and agreed to submission of the applications and his protest without further hearing or investigation.

#### Records Relied Upon

The records relied upon in support of this decision are the files of Applications 17480 and 17481 and all relevant information in connection therewith, with particular reference to the report of the field investigation made on June 24, 1958, by the above-named engineers; License 2073 (Application 6397) and License 4707 (Application 12626); the records of discharge of Gawne Stream during the summer of 1958 made by the Board; and United States Geological Survey "Peters", "Avena", "Manteca", "East Stockton" Quadrangles, 7½-minute series.

Description of the Sources

The source of supply named in the subject applications is a minor tributary of Lone Tree Creek via Gawne Stream rising at about elevation 100 feet within Section 31, T1N, R9E. Examination of the United States Geological Survey quadrangle maps covering the general area shows numerous drainways in the Lone Tree Creek system which undoubtedly discharge return waters thereto.

The field investigation on June 24, 1958, disclosed that the applicant's works have been constructed and are in operation; that these works are operated in conjunction with three wells on applicant's property; that water is pumped from sumps in the stream bed and used to maintain the water level in applicant's rice fields; and that the system is arranged so that a portion of the drainage water therefrom can be reused.

Water Supply

Measurements of stream flow in the sources affected by applicant's projects were made on June 24, 1958, as follows:

Immediately above applicant's diversion points . . . . .	0.2 cfs
Gawne Stream immediately above confluence with source named in the applications . . . . .	30.0 cfs
Lone Tree Creek at Burgess's point of diversion below confluence with Gawne Stream . . . . .	27.5 cfs

To determine the occurrence and amount of water in Gawne Stream, the State Water Rights Board installed and operated

a gaging station at a point about one mile downstream from Protestant Sabatte's point of diversion for the period July 15 to September 2, and October 9 to November 13, 1958. These records are set forth in Table 1.

TABLE NO. 1

MEAN DAILY DISCHARGE, GAWNE STREAM BELOW  
 PROTESTANT SABATTE'S POINT OF DIVERSION - CFS  
 JULY - NOVEMBER 1958

Day	Month				
	<u>July</u>	<u>August</u>	<u>September</u>	<u>October</u>	<u>November</u>
1	No record	0.3	2.5	No record	3.8
2	"	0.2	5.8	"	6.0
3	"	0.2	No record	"	3.8
4	"	0.3	"	"	3.8
5	"	0.8	"	"	3.8
6	"	0.3	"	"	3.8
7	"	0.2	"	"	3.8
8	"	-	"	"	3.8
9	"	-	"	8.5	3.8
10	"	0.8	"	8.5	3.8
11	"	1.5	"	6.0	3.8
12	"	0.3	"	8.5	3.8
13	"	-	"	13.2	3.8
14	"	-	"	8.5	No record
15	1.5	-	"	6.0	"
16	0.8	0.2	"	6.0	"
17	3.8	0.8	"	8.5	"
18	2.5	0.8	"	13.2	"
19	3.8	0.8	"	40.0	"
20	3.8	0.8	"	40.0	"
21	3.8	0.3	"	8.5	"
22	2.5	0.8	"	6.0	"
23	0.8	3.8	"	6.0	"
24	0.3	5.8	"	3.8	"
25	3.8	5.8	"	3.8	"
26	0.3	3.8	"	2.5	"
27	1.5	0.8	"	1.5	"
28	1.5	0.8	"	2.5	"
29	0.2	3.8	"	3.8	"
30	0.3	2.5	"	3.8	"
31	0.3	0.3	"	3.8	"

### Discussion

The origin of the water supply available for diversion during the normal irrigation season is essentially return waters resulting from irrigation of lands within the Lone Tree Creek watershed, a portion of which results from irrigation operations on the applicant's lands. The character of these waters is further evidenced by the substantial and fluctuating flows occurring in Gawne Stream during a period when normal rainfall is nil.

It is apparent that on June 24, 1958, the date of the investigation by engineers of the Board, that use of water in the tributary to Gawne Stream would not adversely affect the protestants on Gawne Stream. From Table 1, it is apparent that some water is available on other dates which would allow diversion to continue throughout the requested diversion season without serious interruption.

### Conclusion

The evidence indicates and the Board finds that unappropriated water frequently exists in the source named under Applications 17480 and 17481; that when such water occurs it may be taken and used by the applicant as proposed without injury to any lawful user of water; that the proposed use of water is beneficial, and accordingly the applications should be approved and permits issued.

ORDER

Applications 17480 and 17481 for permits to appropriate unappropriated water having been filed, protests having been filed, applicant and protestant having submitted stipulations to the proceedings in lieu of hearing as provided for under Section 737 of the California Administrative Code, Title 23, Waters, an investigation having been held by the State Water Rights Board, and said Board having considered all of the available information and now being fully informed in the premises:

IT IS HEREBY ORDERED that Applications 17480 and 17481 be and the same are hereby approved, and it is ordered that permits be issued to the applicant subject to vested rights and the following terms and conditions, to wit:

1. The amount of water appropriated under each application shall be limited to the amount which can be beneficially used and shall not exceed one cubic foot per second to be diverted from about April 1 to about November 30 of each year.

The equivalent of such continuous flow allowance for any thirty-day period may be diverted in a shorter time if there be no interference with vested rights.

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

3. Construction work shall be completed on or before December 1, 1960.

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

5. 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.

6. 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.

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

Kent Silverthorne, Chairman

W. P. Rowe, Member

Ralph J. McGill, Member