

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

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In the Matter of Application 17668)
of R. E. Morris to appropriate from) Decision No. D 947
Gawne Stream in San Joaquin County)

ADOPTED DEC 17 '59

947

Substance of the Application

Application 17668, filed June 21, 1957, by R. E. Morris is for a permit to appropriate 0.15 cubic foot per second from March 1 to November 30 of each year from Gawne Stream, tributary to Lone Tree Creek, for irrigation purposes. The point of diversion is to be located within the NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 2, T1S, R8E, MDB&M*, and the place of use consists of 10 acres within the NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of said Section 2.

Protests

Bill Burgess protests the approval of Application 17668 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 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

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

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.

Protests against the approval of the application submitted by Clara T. Lewis, Arnaudo Brothers, and Floyd R. and Barbara J. Due have been adjusted.

Answer to Protest

In reply to the protest of Bill Burgess, applicant states in effect that by reason of the irrigation of 80 acres of land by deep wells immediately above the diversion point proposed under the application, the return flow from the 80 acres would equal or exceed the amount diverted for the irrigation of the 10 acres covered under Application 17668.

Field Investigation

Applicant and protestant, 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. On June 24, 1958, a field investigation was conducted by J. V. Scammon and A. N. Webb, engineers on the staff of the Board. Applicant and protestant were present at the investigation.

Records Relied Upon

The records relied upon in support of this decision are the files of Application 17668 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; the records of discharge of Gawne Stream during the summer of 1958 made by the Board; and United States Geological Survey "Peters", "Avena", "Manteca", and "East Stockton" Quadrangles, 7½-minute series.

Description of the Source

From examination of the afore-mentioned quadrangle maps, Gawne Stream appears to have its source in marshes and drainways within the NE¼ of Section 1, T1S, R8E, at about elevation 100 feet and continues in a southeasterly direction some four miles to the confluence with Lone Tree Creek. The maps also show numerous drainways in the Lone Tree Creek system which discharge return waters into Gawne Stream at points above and below applicant's project.

The field investigation disclosed that the purpose of Application 17668 is to supplement and add to a supply available under Permit 10101 (Application 16139) which covers the irrigation of 30 acres in the same 40-acre subdivision as described under Application 17668; that upstream on an adjacent parcel of land applicant has a well with a pump having a capacity of 800 gallons per minute; and that some of the waters pumped from this well return to Gawne Stream at points above and below applicant's point of diversion as surface flow.

Water Supply

Measurements of stream flow in Gawne Stream and at protestant's point of diversion on Lone Tree Creek were made on June 24, 1958, in conjunction with the field investigation of the application. These measurements are as follows:

At point about 500 feet downstream
from applicant's point of
diversion 30.0 cfs

Lone Tree Creek at Burgess' 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 two miles downstream from applicant's point of diversion. Records were collected for the period July 15 to September 2 and October 9 to November 13, 1958. These records are set forth in Table 1.

Discussion

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 operation 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 rainfall is nil.

The protestant claims, according to his protest, that his use of water has seldom been less than 1.47 cfs (his License

2073 confirms a right to 1.13 cfs). It is apparent that on June 24, 1958, the date of the investigation, that use of water from Gawne Stream would not have adversely affected the protestant. It is also apparent from Table 1 that there occur at times, in varying amounts and frequency, quantities of unappropriated water which may be taken and used by applicant in the manner proposed without injury to protestant or for that matter to any lawful user of water on the stream system affected.

TABLE NO. 1

MEAN DAILY DISCHARGE, GAWNE STREAM BELOW
PROTESTANT SABATTE'S POINT OF DIVERSION

JULY - NOVEMBER 1958

(In Cubic Feet per Second)

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

Conclusion

The evidence indicates and the Board finds that unappropriated water frequently exists in the source named under Application 17668; 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 its application should be approved and permit issued.

Order

Application 17668 for a permit to appropriate unappropriated water having been filed, protest 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 the Board having considered the available information and now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 17668 be, and the same is, hereby approved, and it is ordered that a permit be issued to the applicant subject to vested rights and the following terms and conditions:

1. The amount of water appropriated shall be limited to the amount which can be beneficially used and shall not exceed 0.15 cubic foot per second to be diverted from about March 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