

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 19132)
of LOUIS O. and ANNA I. WURZ, doing)
business as "L. O. WURZ RANCHES", to)
Appropriate from Dry Creek (underflow),)
Tributary to Napa River in Napa County)

Decision D 1034

ADOPTED AUG 17 '61

DECISION APPROVING APPLICATION IN PART

Louis O. and Anna I. Wurz, doing business as "L. O. Wurz Ranches," having filed Application 19132 for a permit to appropriate unappropriated water; protests having been received; the applicants and protestants having stipulated to proceedings in lieu of hearing as provided for by Title 23, California Administrative Code, Section 737; an investigation having been made by the State Water Rights Board pursuant to said stipulation; the Board, having considered all available information and now being fully advised in the premises, finds as follows:

1. Application 19132 is for a permit to appropriate 1.25 cubic feet per second (cfs) by direct diversion from April 1 to July 30 of each year for irrigation purposes from Dry Creek (underflow), tributary to Napa River in Napa County. The point of diversion is to be located within the SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 18, T6N, R4W, MDB&M.

2. Three protestants located between approximately 600 feet and one mile below the applicants' point of diversion divert from the underflow of Dry Creek for irrigation and domestic purposes on a total of approximately 145 acres under claimed riparian rights. Protestant Wheatley holds Permit 11738 allowing the diversion of 1.78 cubic feet per second between April 15 and October 15 of each year. The quantity being used by other protestants under riparian claim, based upon a use of one cubic foot per second per 80 irrigated acres, is approximately 0.06 cubic foot per second, for a total use by protestants of 1.84 cubic feet per second during the irrigation season.

3. The mean and median monthly flows of Dry Creek during the months of April through July for the period 1951 through 1958, as determined from a USGS gaging station located approximately 1.5 miles upstream from the applicants' point of diversion are as follows:

	April	May	June	July
Mean	33.6	7.47	2.31	0.59
Median	15.5	6.30	1.84	0.68

The mean monthly flows for June exceeded the protestants' uses of 1.84 cubic feet per second in only four of the eight years of record.

4. There are no diversions from, or appreciable contributions to, Dry Creek between the gaging station and the applicants' point of diversion.

5. The Department of Fish and Game withdrew its protest to the application following a stipulation by the applicants that any permit issued pursuant to the application would contain the following condition:

"Permittee shall bypass the following flows past the point of diversion to maintain fish life: (1) 5 cfs, or the natural flow of the stream whenever it is less than 5 cfs during the period April 1 to April 30, inclusive; (2) 3 cfs, or the natural flow of the stream whenever it is less than 3 cfs during the period May 1 to May 31, inclusive."

6. There is unappropriated water available during the months of April and May to supply the applicants, and subject to suitable conditions, such water may be diverted and used in the manner proposed without causing substantial injury to any lawful user of water.

7. There is no unappropriated water available to supply the applicants during the months of June and July.

8. The intended use is beneficial.

9. Construction of the applicants' project is complete.

From the foregoing findings, the Board concludes that Application 19132 should be approved in part and that a permit should be issued to the applicants subject to the limitations and conditions set forth in the following Order.

The records, documents, and other data relied upon in determining the matter are: Application 19132 and all relevant information on file therewith, particularly the report of the

field investigation made November 10, 1960; Permit 11738 (Application 18104); United States Geological Survey (USGS) Napa, Sonoma, Rutherford, and Yountville quadrangles, 7.5-minute series, dated 1951; and USGS Water Supply Papers "Surface Water Supply of the United States, Part 11, Pacific Slope Basins in California."

IT IS HEREBY ORDERED that Application 19132 be, and the same is, approved in part, and that a permit be issued to the applicants subject to vested rights and to the following limitations and conditions:

1. The amount of water to be appropriated shall be limited to the amount which can be beneficially used and shall not exceed 1.25 cubic feet per second by direct diversion to be diverted between about April 1 and about May 31 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 warrants.

3. Permittees shall bypass the following flows past the point of diversion to maintain fish life: (1) 5 cfs, or the natural flow of the stream whichever is less, during the period April 1 to April 30, inclusive; (2) 3 cfs, or the natural flow of the stream whichever is less, during the period May 1 to May 31, inclusive.

4. Complete application of the water to the proposed use shall be made on or before December 1, 1963.

5. Progress reports shall be filed promptly by permittees 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.

IT IS FURTHER ORDERED that, except to the extent expressly approved, Application 19132 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 the day of , 1961.

Kent Silverthorne, Chairman

Ralph J. McGill, Member

W. A. Alexander, Member

