

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 20775
of George R. and Beatrice L. Henke
to Appropriate from Segassia Canyon
in Napa County

Decision D 1139

ADOPTED MAY 22 1963

DECISION APPROVING APPLICATION IN PART

George R. and Beatrice L. Henke having filed Application 20775 for a permit to appropriate unappropriated water; protest having been received; the applicants and protestant 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 20775 is for a permit to appropriate 8,000 gallons per day by direct diversion year-round for irrigation, domestic, and fire protection purposes from Segassia Canyon in Napa County. The point of diversion is to be located within the SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 4, T6N, R5W, MDB&M.

2. The applicants have constructed a small diversion dam at a point on Segassia Canyon located approximately 800 feet upstream from the point where the canyon joins Dry Creek. Water is lifted by a hydraulic ram through a 1 $\frac{1}{4}$ -inch pipeline into

two storage tanks for use at a home. They propose to increase the capacity of their diversion works by installing a pump and thereby irrigate approximately 4 acres of land and serve one or more additional homes. The applicants' irrigation season is from about April 1 to about November 1.

3. There has been flow in Segassia Canyon at all times since the applicants acquired their property in the year 1959 and on November 19, 1962, the date of the field investigation, flow was approximately 0.3 cfs.

4. Protestant Louis O. Wurz, located on Dry Creek approximately 5 miles below the applicants, holds Permit 12953 (Application 19132) to appropriate 1.25 cfs from about April 1 to about May 31. Board's Decision D 1034 on Application 19132 denied diversions during the months of June and July based on the finding that there was no unappropriated water in Dry Creek during the summer months. The Board also made a finding in the same decision that a flow of 1.84 cfs in Dry Creek during the summer months was necessary to satisfy the rights of users located below the Wurz property. There has been no showing of any change in circumstances since that decision which would justify different findings at the present time.

5. The mean monthly flows in cubic feet per second of Dry Creek derived from the records of a USGS gaging station "near Napa" during the months when the supply is critical for the period 1951 through 1961 are as follows:

May	June	July	Aug.	Sept.	Oct.	Nov.
7.26	2.16	0.55	0.5	0.1	0.68	2.19

This gaging station is located 3.5 miles downstream from the applicants and approximately 2 miles upstream from the protestant.

6. There is unappropriated water available to supply the applicants from about November 1 of each year to about June 1 of the succeeding year, 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. There is no unappropriated water to supply the applicants from about June 1 to about November 1 of each year.

7. The intended use is beneficial.

8. As the applicants claim a riparian right to the waters of Segassia Canyon, the permit should contain a term stating that water diverted under the permit shall not be in addition to such water, if any, that permittee may be entitled to use from the same source on the place of use authorized by this permit by virtue of a riparian or other right.

From the foregoing findings, the Board concludes that Application 20775 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 20775 and all relevant information on file therewith, particularly the report of the field investigation made November 19, 1962, the files of Application 19132, Permit 12953, Decision D 1034; Application 18104, Permit 11738; Application 16367, License 5360, with particular reference to report of inspection made on April 11,

1957; USGS Water Supply Papers, "Surface Water Supply of the United States, Part 11, Pacific Slope Basins in California," and USGS Napa, Rutherford, and Yountville Quadrangles, 7.5-minute series, each dated 1951.

IT IS HEREBY ORDERED that Application 20775 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 appropriated shall be limited to the amount which can be beneficially used and shall not exceed 8,000 gallons per day by direct diversion to be diverted as follows: (a) from about April 1 to about June 1 of each year for irrigation purposes and (b) from about November 1 of each year to about June 1 of the succeeding year for domestic and fire protection purposes. The equivalent of such continuous flow allowance for irrigation purposes 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. Construction work shall be completed on or before December 1, 1965.

4. Complete application of the water to the proposed use shall be made on or before December 1, 1966.

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.

7. Permittee shall allow representatives of the State Water Rights Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.

8. Water diverted under this permit shall not be in addition to such water, if any, that permittee may be entitled to use from the same source on the place of use authorized by this permit by virtue of a riparian or other right.

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 , 1963.

Kent Silverthorne, Chairman

Ralph J. McGill, Member

W. A. Alexander, Member