

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 19827
of Edmund J., Edmund C., and June
Rehberger to Appropriate from an
Unnamed Stream Tributary to
Grizzly Gulch in Sierra County

Decision D 1172

ADOPTED FEB 17 1964

DECISION APPROVING APPLICATION

Edmund J., Edmund C., and June Rehberger having filed Application 19827 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 19827 is for a permit to appropriate 0.032 cubic foot per second (cfs) by direct diversion year-round for domestic and irrigation purposes from an unnamed stream in Sierra County. The point of diversion is to be located within the NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 8, T18N, R9E, MDB&M.

2. The applicants are presently diverting from the unnamed stream at a point approximately 3/4 mile above the stream's

junction with Grizzly Gulch for use at a house and for the irrigation of surrounding lawn, trees and garden. They propose to increase their irrigated area to two acres and install a sprinkler system.

3. Protestant Baldwin, who has succeeded to the interests of protestants R. W. Larsen et al., is the owner of the 320-acre Wayman Ranch. He diverts from the unnamed stream approximately 1/4 mile below the applicants for the irrigation of approximately 30 acres of orchard under claim of pre-1914 appropriative rights.

4. On August 23, 1963, when both the applicants and the protestant were diverting water, the latter at the apparent maximum capacity of his diversion works, 0.22 cfs was flowing in the unnamed stream just below the protestant's point of diversion.

5. There is unappropriated water available 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.

6. The intended uses are beneficial.

7. The applicants' point of diversion is located on U. S. Forest Service land, and negotiations are in progress for the acquisition of access by the applicants. The permit should contain a special term stating that it shall in no way be construed as conferring upon the permittees' right of access to the point of diversion.

8. The permit should contain a special term stating that it shall not operate to the prejudice of any prior rights to water from the unnamed stream that may have been acquired for use on the Wayman Ranch in Section 18, T18N, R9E, MDB&M.

From the foregoing findings, the Board concludes that Application 19827 should be approved 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 19827 and all relevant information on file therewith, particularly the report of the field investigation made on April 2, 1962; United States Geological Survey "Pike" and "Camptonville" 7.5-minute quadrangles.

ORDER

IT IS HEREBY ORDERED that Application 19827 be, and the same is, approved, 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 0.032 cubic foot per second by direct diversion to be diverted year-round. 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. Actual construction work shall begin on or before June 1, 1964, and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked.

4. Construction work shall be completed on or before December 1, 1966.

5. Complete application of the water to the proposed use shall be made on or before December 1, 1967.

6. 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.

7. 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.

8. 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.

9. This permit shall in no way be construed as conferring upon permittees' right of access to the point of diversion.

10. This permit shall not operate to the prejudice of any prior rights to water from the unnamed stream that may have been acquired for use on the Wayman Ranch located in Section 18, T18N, R9E, MDB&M.

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 _____, 1964.

Kent Silverthorne, Chairman

Ralph J. McGill, Member

W. A. Alexander, Member