

STATE OF CALIFORNIA  
STATE WATER RIGHTS BOARD

In the Matter of Application 18526  
of Nelson and Emily Santos to  
Appropriate from the Stanislaus River  
in San Joaquin County

Decision D 1206

ADOPTED DEC 22 1964

DECISION APPROVING APPLICATION IN PART

Application 18526 of Nelson and Emily Santos having been filed; protests to the application having been withdrawn; a public hearing having been held before the State Water Rights Board in Sacramento, California, on January 21, 1964, conducted by Board Members Ralph J. McGill, presiding, and W. A. Alexander for the purpose of determining the availability of unappropriated water to satisfy the applicants; applicants having appeared and presented evidence; the evidence received at the hearing having been duly considered; the Board finds as follows:

1. Application 18526 is for a permit to appropriate 1.1 cubic feet per second (cfs) by direct diversion from April 1 of each year to January 15 of the following year for irrigation purposes from the Stanislaus River in San Joaquin County. The point of diversion is located within the NE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 2, T3S, R7E, MDB&M.

1206

2. For the past six years the applicants have been diverting from the river by means of a 40-horsepower pump to irrigate approximately 86 acres of adjacent land located approximately 10 miles upstream from where the river enters the San Joaquin River. They propose no additional or different use of water.

3. Water from the Stanislaus River flows into the Sacramento-San Joaquin Delta where it is required to satisfy prior rights of local water users and the Bureau of Reclamation for its Central Valley Project, including salinity control, during the months of August and September in every year and during the month of July in most years (Staff Exhs. 4, 6, and 9). Surplus water is available to supply the applicants during the remaining months of the year.

4. There is unappropriated water to supply the applicants from April through June of each year and from October through January 15 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.

5. The intended use is beneficial.

6. The applicants' land is contiguous to the source, and they claim a riparian right to the use of water therefrom, but said claimed right has not been established by court decree. The permit should provide that upon a judicial determination that the land or a portion thereof is entitled to the use of water by

riparian right, the right so determined and the right acquired under this permit shall not result in a combined right to the use of water in excess of that which could be claimed under the larger of the two rights.

From the foregoing findings, the Board concludes that Application 18526 should be approved in part and that a permit should be issued to the applicants, subject to limitations and conditions set forth in the following Order.

ORDER

IT IS HEREBY ORDERED that Application 18526 be, and it 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 water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 1.1 cubic feet per second by direct diversion, to be diverted from about April 1 to about July 1 of each year and from about October 1 of each year to about January 15 of the succeeding year. The equivalent of such continuous flow allowance for any 30-day period may be diverted in a shorter time if there be no interference with vested rights.

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

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

4. Progress reports shall be filed promptly by permittees on forms to be provided annually by the State Water Rights Board until license is issued.

5. 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, unlawful use, unlawful method of use, or unlawful method of diversion of said water.

6. Permittees 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.

7. Upon a judicial determination that the place of use under this permit, or a portion thereof, is entitled to the use of water by riparian right, the right so determined and the right acquired under this permit shall not result in a combined right to the use of water in excess of that which could be claimed under the larger of the two rights.

Adopted as the decision and order of the State Water Rights Board at a meeting duly called and held in Sacramento, California, this            day of            1964.

/s/ Kent Silverthorne  
Kent Silverthorne, Chairman

/s/ Ralph J. McGill  
Ralph J. McGill, Member

/s/ W. A. Alexander  
W. A. Alexander, Member

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