

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application )  
22094 of Raymond A. Nachand )  
to Appropriate from Pony Bar )  
Creek in Trinity County )  
Decision 1296

DECISION APPROVING APPLICATION

Application 22094 of Raymond A. Nachand having been filed; a protest having been received; a public hearing having been held before the State Water Rights Board (predecessor of the State Water Resources Control Board) on August 8, 1967, conducted by Board Member W. A. Alexander; applicant having appeared and presented evidence; the evidence received at the hearing having been duly considered; the Board finds as follows:

1. Application 22094 is for a permit to appropriate 10,000 gallons per day by direct diversion, year-round, for domestic and irrigation purposes from Pony Bar Creek in Trinity County. The point of diversion is to be located within the SE $\frac{1}{4}$  of SE $\frac{1}{4}$  of Section 29, T6N, R6E, HB&M.

2. The applicant has constructed a small diversion dam on the north fork of Pony Bar Creek on Forest Service land approximately 200 feet above the junction of the creek's two forks. Pony Bar Creek enters the Trinity River approximately one-half mile below the applicant's dam. Water from the creek is diverted through approximately 2,800 feet of pipe into a regulatory storage tank for irrigation of several fruit trees, watering of about four head of livestock, and use at a house, two house trailers, and a cafe.

3. Protestant Francis B. Mathews holds License 2111 (Application 4420) to appropriate 0.18 cubic foot per second (cfs) of water from Pony Bar Creek from about April 1 to about October 15 of each year for irrigation and domestic purposes. His point of diversion is approximately one-quarter mile below the applicant. He recently transferred his interest in the land covered by the license to protestant Trinity River Development Company. Protestant Frank Parker uses water from the creek at a home and is connected to the system covered by License 2111. He claims a right to use water under License 2111. This claim of right is not recognized by the other protestants. There are no other diverters on Pony Bar Creek.

None of the protestants appeared at the hearing in support of their protests.

4. There is no record of the flows of Pony Creek. On April 27, 1966, at the time of a field investigation on Application 22094, the creek's flow was measured at 1 cfs. A correlation of precipitation records in the area with this and other spot measurements taken over a number of years shows that even during periods of below-normal precipitation there is sufficient water in the creek to cover the quantity authorized by License 2111 and the quantity applied for under Application 22094.

At all times when observed, water has passed protestant Mathews' point of diversion in substantial quantities to flow into the Trinity River (RT 13-15), which reinforces the foregoing conclusion.

5. Unappropriated water is available to supply the applicant, 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 use is beneficial.

From the foregoing findings, the Board concludes that Application 22094 should be approved and that a

permit should be issued to the applicant subject to the limitations and conditions set forth in the following order.

ORDER

IT IS HEREBY ORDERED that Application 22094 be, and it is, approved, and that a permit be issued to the applicant 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 10,000 gallons per day by direct diversion, year-round.
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, 1971.
4. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the State Water Resources Control 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 Resources Control 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.

6. Permittee shall allow representatives of the State Water Resources Control 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.

Adopted as the decision and order of the State Water Resources Control Board at a meeting duly called and held at Sacramento, California.

Dated: APR 4 1968

/s/ George B. Maul  
George B. Maul, Chairman

Absent  
W. A. Alexander, Vice Chairman

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

/s/ E. F. Dibble  
E. F. Dibble, Member

/s/ Norman B. Hume  
Norman B. Hume, Member