

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 22630
of Mabel Staudenraus and Wells Fargo
Bank, Executor of the Estate of
Robert R. Staudenraus, to Appropriate
from South Honcut Creek in Yuba County

Decision 1335

DECISION APPROVING APPLICATION IN PART

Mabel Staudenraus and Robert R. Staudenraus having filed Application 22630 for a permit to appropriate unappropriated water; protests having been received; a public hearing having been held before the State Water Resources Control Board on July 16, 1968; applicants Mabel Staudenraus and Wells Fargo Bank, Executor of the Estate of Robert R. Staudenraus, deceased, having appeared and presented evidence; the evidence received at the hearing having been duly considered, the Board finds as follows:

1. Application 22630 is for a permit to appropriate 3 cubic feet per second (cfs) by direct diversion from September 1 of each year to June 30 of the succeeding year for irrigation and recreational purposes from South Honcut Creek in Yuba County. The point of diversion is to be located within the NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 27, T17N, R4E, MDB&M.

2. Application 22630 covers use of water for the irrigation of row crops and rice and the flooding of duck ponds within a 410-acre parcel of land that borders South Honcut Creek. The land is located approximately 5 miles above the junction of North and South Honcut Creeks. The main stem of Honcut Creek enters the Feather River approximately 3 miles below this junction. The applicants' diversion system is complete and no additional use of water from that used in the past is contemplated. They claim a riparian right to use water from South Honcut Creek.

3. Upon the applicants' request, the record of the hearing was left open for a period of 60 days to give the applicants an opportunity to submit engineering data or further information on the issue of the existence of unappropriated water (RT 42, 43). Later, an additional 60 days was given the applicants for such purpose. No such data or information has been submitted by the applicants.

4. Protestant Spencer Grant, one of the owners of the Honcut Ranch located just below the applicants, claims a riparian right to 30 cfs of water from South Honcut Creek for the irrigation of 2,600 acres of rice and 3 cfs for raising mosquito fish. He also uses South Honcut Creek to transport purchased water from the Browns Valley Irrigation District and is apprehensive that approval of Application 22630 will interfere with the delivery of this water (RT 23). He has

no objection to approval of Application 22630 if the diversion season is restricted to a period from November 1 of each year to April 30 of the succeeding year.

Protestant Garden Highway Mutual Water Company holds Licenses 2033, 4659 and 5629 (Applications 1699, 14415 and 15893) and claims that the land it serves has pre-1914 and riparian rights to water from the Feather River. It has no objection to approval of Application 22630 if the months of May and June are eliminated from the applicants' diversion season.

5. There are no records of the flows of South Honcut Creek near the protestant Grant's point of diversion. However, a U.S.G.S. gaging station is located approximately 12 miles upstream. The drainage area above the gaging station is 30.5 square miles and the drainage area above protestant Grant's point of diversion is 58 square miles. Using the records of the gaging station, and by area proration, an estimate of the monthly minimum flows of South Honcut Creek that have been available to this protestant can be obtained. Such a study shows that in only 5 out of 17 years of record would South Honcut Creek at his point of diversion exceed the 30 cfs claimed by him during the month of May, and on no occasions during the month of June.

The records of the gaging station show that there has been no flow in the creek during September in excess of the 3 cfs necessary for the mosquito fish protestant Grant is raising and in only 5 out of 17 years during the month of October.

6. Unappropriated water is available to supply the applicants only from November 1 of each year to April 30 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.

7. The intended use is beneficial.

From the foregoing findings, the Board concludes that Application 22630 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 order following.

ORDER

IT IS HEREBY ORDERED that Application 22630 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 3 cubic feet per second by direct diversion to be diverted from about November 1 of each year to about April 30 of each 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, 1972.

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 and to carry out legally established water quality objectives.

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.

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 Resources Control Board at a meeting duly called and held at Sacramento, California.

Dated: MAR 6 1969

KERRY W. MULLIGAN
Kerry W. Mulligan, Chairman

W. A. ALEXANDER
W. A. Alexander, Vice Chairman

GEORGE B. MAUL
George B. Maul, Member

NORMAN B. HUME
Norman B. Hume, Member

E. F. DIBBLE
E. F. Dibble, Member