

BEFORE THE DIVISION OF WATER RESOURCES
DEPARTMENT OF PUBLIC WORKS
STATE OF CALIFORNIA

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In the Matter of Application 11050 of Roy C. Sharpless to
Appropriate water from Bennet Springs, Tributary to Cajon
Canyon in San Bernardino County for Domestic, Irrigation
and Stock Watering purposes.

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Decision A. 11050 D. 571

Decided *February 2, 1948*

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APPEARANCES AT INVESTIGATION CONDUCTED BY THE DIVISION OF
WATER RESOURCES AT THE SITE OF THE PROPOSED APPROPRIATION
ON OCTOBER 18, 1946.

For the Applicant

Roy C. Sharpless

(Mr. Minor
(Mr. Snaveley
(Mr. Christensen

For the Protestants

George C. Stevenson)
George Pallas)
C. Culp

(Harry H. Parsons
(George E. Hines
Mr. King

For the State Engineer

J. J. Heacock, Associate Hydraulic Engineer, Division of Water
Resources, Department of Public Works, State of California.

Also in attendance were the applicant and interested
parties as follows: Kemper Campbell, Niles Sorenson, W. C. Silliman
and Mr. Sales.

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OPINION

General Description of Project

The application was filed with the Division of Water Resources
by Roy C. Sharpless on May 14, 1945. It envisions an appropriation of
0.16 cubic foot per second by a gravity diversion from Bennet Springs
from January 1 to December 31 of each year for domestic, irrigation and

and stock watering purposes. The applicant asserts that he owns the land whereon use of water will be made and that he will secure right of access to the proposed point of diversion, which lies on government land. Proposed utilization includes the domestic requirements of 5 persons, the irrigation of 11 acres of alfalfa, orchard, garden and general crops and the watering of 5 horses.

PROTESTS

George P. and Mabel C. Steveson and George C. Pallas assert ownership of 78.28 acres in Section 6, T 3 N, R 6 W, S.B.B.&M., allege that Charles Bennett, a former owner, on November 29, 1883, appropriated all of the water from the source filed upon under Application 11050 and that such water has all been used, beneficially, for domestic, irrigation and stock watering purposes, each year since the date named. They allege further that the means of their diversion is a pipe line, by which they are able to irrigate 15 acres and also meet their domestic and stock watering requirements, and that this use completely exhausts the flow of the spring in question, leaving no surplus subject to further appropriation. In answer to this protest the applicant denies generally the several allegations, denies specifically that legal title of water rights initiated by Charles Bennett has passed to the present protestants and asserts on the contrary that such rights passed to the Verdi Cattle Company of Victorville; he denies that beneficial use has been continuous or that the yield from the source has been fully utilized; he claims that not over one tenth of the total water supply is being used and that the present pipe line is of insufficient capacity to carry more due to stoppages and general deterioration, and that as a result of this condition 0.9 of the available supply is wasted.

C. Culp protests upon grounds of insufficiency of water. He

contends that the amount applied for, if taken in summer, would divert water from a 2½ inch pipe line installed over 60 years ago by his predecessors in interest and used ever since for domestic purposes and irrigation. He states that his protest may be disregarded and dismissed if an agreement can be reached recognizing his prior right. The applicant answers this protest by asserting that the protestant occupies his property for short periods only, and intermittently, has to carry all water used by him, in pails, for about 200 feet and consequently uses very little.

J. W. Hennecke asserts that he owns 40 acres downstream from Bennet Springs, which is the only source from which his property can be served. He claims to be riparian to the water issuing from Bennet Springs and that the proposed diversion would leave insufficient water to meet his necessities. The applicant replies that surface flow from Bennet Springs usually sinks within 500 feet and that the underground flow reaching this protestant whose lands are 1 mile down the dry wash would be insignificant. He remarks that the water applied for was put to use over 50 years ago on the land described in his application. This protest was dismissed as insufficient.

Field Investigation

Application 11050 having been filed and protests against approval thereof having been received was regularly set for a field investigation of which the applicant and protestants were duly notified and did agree by signed stipulations to abide by the report and subsequent findings of such investigation. The investigation was duly conducted at the site of the proposed appropriation on October 18, 1946.

Records Relied Upon

Application 11050 and all data and information on file therewith.

Discussion

From the investigation it was concluded that unappropriated water exists and that more can be developed although probably not enough to satisfy the full amount of the application at all times in addition to prior, existing rights. It was concluded also that the location of the point of diversion was in doubt and should be established definitely. Action consequently was withheld until such time as the applicant might be able to establish right of access to the point of diversion and right of way for his conduit.

Subsequently the applicant had his land surveyed by a licensed land surveyor and submitted a map showing the results of such survey. This information was accepted as a basis upon which to settle questions relating to location of point of diversion, right of way and place of use. It indicated both the point of diversion and a feasible conduit routing to lie upon Forest Service land. The application was amended and readvertised. Assurance was received that the Forest Service would issue an appropriate Special Use Permit in the event of approval, by the Division, of the application. It was at first thought that a re-hearing would be in order but later concluded that such procedure would be unnecessary, no other parties having entered the case nor information filed which had not received sufficient consideration at the initial hearing.


ORDER

Application 11050 for a permit to appropriate water having

been filed with the Division of Water Resources as above stated, protests having been filed, a field investigation having been made, a stipulated hearing having been held in accordance with Article 13, Section 733b of the Administrative Code and the State Engineer now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 11050 be approved and that a permit be issued to the applicant subject to such of the usual terms and conditions as may be appropriate.

WITNESS my hand and the seal of the Department of Public Works of the State of California this 2nd day of Feb., 1948.


State Engineer

