

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

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In the Matter of Application 12386 of Chester L. Jones to appropriate water from an unnamed spring or well near an unnamed tributary to Pine Creek in San Diego County for domestic purposes.

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Decision A. 12386, D. 591

Decided December 15, 1948

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APPEARANCES AT INVESTIGATION CONDUCTED AT THE SITE OF THE PROPOSED APPROPRIATION ON AUGUST 13, 1948.

For the Applicant

Chester L. Jones

In propria persona

For the Protestant

City of San Diego

(Fred D. Pyle, Hydraulic
(Engineer, City of
(San Diego
(
(John J. Fanning, Deputy
(City Attorney, City of
(San Diego

For the State Engineer

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

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C P I N I O N

General Description of Project

Application 12386 was filed by Chester L. Jones on March 5, 1948. It

contemplates a diversion of 0.034 cubic foot per second year-round to be directly applied to beneficial use without storage and 0.034 acre-foot per annum to be collected between January 1 and December 31 for temporary storage and later utilization. The source designated is an unnamed spring or well in San Diego County, tributary to Pine Creek. The point of diversion is described as being located within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 26, T 15S, R 4 E, S.B.B. & M. Diversion is to be effected by means of a pump of a capacity of 30 gallons per minute, the proposed storage reservoir is an 11000-gallon tank, and the conduit is to be a 2-inch iron pipe line, 6100 feet long, terminating in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 27, T 15 S, R 4 E, S.B.B. & M. Water is to be used for domestic purposes upon 42 acres distributed as follows: 8 acres within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ and 4 acres within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 22; and 10 acres within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, 20 acres within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ and 5 acres within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 27, T 15 S, R 4 E, S.B.B. & M. The applicant does not claim ownership of land at the proposed point of diversion but asserts that he is receiving the cooperation of the United States Forest Service which will give right of way over its lands.

Protest

The City of San Diego protests that the proposed appropriation, if approved, will result in the diversion of water which would otherwise reach its point of diversion thereby lessening the amount of water available for domestic use in that city. Protestant claims rights based upon prior appropriation and continuous use since January 1, 1909, as well as rights initiated by the filing of Applications 3236 and 3237. As to the extent of present and past use the protestant asserts to have diverted in excess of 30 million gallons per day from January 1, 1909 until the Fall of 1921, when the completion of the Barrett Dam made possible the conservation of the entire runoff (above the dam) of Cottonwood Creek, and

its utilization for domestic purposes, within the City of San Diego. The protestant's point of diversion (Barrett Dam) according to the protest is S. 61° 02' 18" W, 2064.5 feet from the quarter corner common to Sections 15 and 22 of T 17 S, R 3 E, S.B.B. & M. No conditions are mentioned in the protest under which it may be disregarded and dismissed.

The applicant states in his answer to the protest above mentioned, among other things, that no water from the spring from which he seeks to divert ever reaches Pine Creek and that for that reason the City of San Diego will not be injured by the proposed appropriation.

Field Investigation

The applicant and the protestant having stipulated to an informal hearing as provided for in Section 733(b) of the California Administrative Code, a field investigation was conducted at the site of the proposed appropriation on August 13, 1948 by an engineer of the Division. During the investigation the applicant was present in person; the protestant was represented by Fred D. Pyle, Hydraulic Engineer, City of San Diego, and John J. Fanning, Deputy City Attorney, City of San Diego.

Records Relied Upon

Application 12386 and all data and information on file therewith.

Discussion

The proposed development contemplates an abstraction of water from the watershed tributary to protestant's Barrett Dam which lies some 16 miles downstream from the applicant's proposed point of diversion. This abstraction, if Application 12386 is approved, may be of the order of 0.034 cubic foot per second. The project involves pumping this water a mile, roughly, northwesterly, to the place of use, which is said to be some 800 feet higher than the spring named as the source, and to drain toward Sweetwater River rather than back into Pine Valley Creek.

The protestant's contention that this abstraction will diminish the supply to which a valid claim has been established would seem theoretically true but it may be doubted that the diminution will be substantial or of practical importance. The ground waters feeding the spring which the applicant seeks to develop, according to Engineer Heacock's investigation, suffer considerable loss before reaching Pine Valley Creek, as they are brought to the surface by a granitic barrier a short distance below the spring and thereafter dissipated in large part by transpiration and evaporation. In consequence the development of the amount applied for at the spring may be supposed, to a considerable extent, to be at the expense of the water-loving vegetation reported, rather than at the expense of downstream claimants.

Of the water brought to the surface at the barrier mentioned, in addition to the portion dissipated, a portion also appears to find its way back into the gravels by deep percolation, to reappear, possibly, at a point or points downstream, there perhaps to be captured and utilized by the protestant or by other users. The proportion of the water originating at the spring which is recaptured and beneficially used cannot be estimated from the data at hand but it may be supposed to be inconsiderable and to be too indefinite as to amount and too inadequately supported as to fact, to justify disapproval of Application 12386. That any of the water originating at the spring is subsequently applied to beneficial use must be considered as within the realm of surmise.

As to protestant's claim of a right based upon its prior Applications 3236 and 3237, it does not appear that such claim is valid, the applications named having been cancelled, at applicant's request, in 1932.

In view of the absence of substantial evidence that the protestant will be injured by the operations proposed under Application 12386, the protest is dismissed.

ORDER

Application 12386 for a permit to appropriate water having been filed with the Division of Water Resources as above stated, a protest having been filed, a field investigation having been made, a stipulated hearing having been held in accordance with Article 13, Section 733(b) of the Administrative Code and the State Engineer now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 12386 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 15th day of December, 1948.




Edward Hyatt, State Engineer