

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

oOo

In the Matter of Application 12202 of Emma E. Baker to Appropriate Water from Laguna de Santa Rosa Tributary to Russian River in Sonoma County for Irrigation Purposes.

oOo

Decision A. 12202 D. 616

Decided September 16, 1949

oOo

IN ATTENDANCE AT INVESTIGATION CONDUCTED BY THE DIVISION OF WATER RESOURCES AT THE SITE OF THE PROPOSED APPROPRIATION ON OCTOBER 29, 1948:

Emma E. Baker	Applicant
H. Neles and Mr. Williams	Applicant's tenants
Ruth W. Finley	Protestant
E. Briggs	Protestant's tenant
Everett Pierson	Protestant's son-in-law
W. W. Godward	Protestant's Attorney
Mr. and Mrs. Lagomarsino	Upper users
A. S. Wheeler	Associate Hydraulic Engineer Division of Water Resources Department of Public Works representing the State Engineer

oOo

OPINION

General Description of the Project

The application was filed with the Division of Water Resources by

Emma E. Baker on December 17, 1947. It contemplates a diversion of 0.5 cubic foot per second from Laguna de Santa Rosa, tributary to Russian River in Sonoma County. The water applied for is to be diverted by means of a portable pump of 200 gallons per minute capacity. This is to operate at two points of diversion, situated in both instances within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 26, T 7 N, R 9 W, MDB&M. The water is to be used for the irrigation of a tract of pasturage consisting of 20 acres within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ and 25 acres within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of the same Section 26. Water is to be diverted from April 15 to November 15 of each season. The applicant asserts ownership of the land on which the points of diversion are located and also ownership of the place of use.

Protest

Ruth W. Finley protests the application, asserting in substance that there is not sufficient water in the source to supply the proposed development in addition to satisfying rights, including her own, that already exist. She represents that the approval of the application will cause misunderstanding and confusion among the interested parties inasmuch as all of the water in question is already in use. She bases her claim of a water right upon Application 11769 and upon prior appropriation and use as a riparian owner, beginning in 1928, to the extent of 1 cubic foot per second. She states that such water has been used annually from May to November inclusive to irrigate 89 acres of orchard and pasture adjacent to the Laguna; her points of diversion being located along the same general reach of the Laguna as are the applicant's.

In answer to the protest the applicant denies that there is insufficient water in the source to supply her proposed appropriation in addition to satisfying earlier rights. She asserts on the contrary that her tenants have been pumping from the Laguna for approximately 6 years last past and that such pumping has neither lowered

the water surface nor elicited any objection from the protestant.

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 October 29, 1948 by an engineer of the Division. The applicant and the protestant were both present during that investigation.

Records Relied Upon

Application 12202 and all data and information on file therewith.

Discussion

Under Application 11769, the application referred to in the protest as one of the bases of the protestant's water right, an appropriation was initiated in the amount of 1.00 cubic foot per second to be diverted from April 15 to November 1 of each season, and to be used for irrigation. The source named was Laguna de Santa Rosa and 3 points of diversion were described, lying respectively within the SW $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ and NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 26, T 7 N, R 9 W, MDB&M. Application 11769 was approved and, thereunder, Permit 6383 was issued.

From the report of investigation it appears that the reach of Laguna de Santa Rosa under consideration receives most of its inflow from a small creek entering the Laguna at Sebastopol, from releases from that city's swimming pool, from outflow from the city's sewage disposal plant and from additional accretions from springs or seeps. It appears further that the aggregate of these contributions is usually sufficient to meet the requirements of both applicant and protestant, and that during periods of shortage it has been feasible to eliminate interference by alternating the pumping by these two parties.

The protestant stated during the investigation that in view of information developed thereat, she was willing to withdraw her protest if the applicant would enter into an agreement providing for rotation of diversions. It was understood that such agreement would not be embodied in such permit as may be issued but would be a private agreement, drawn up by the parties' attorneys. Subsequently the protestant's attorney, by letter dated November 8, 1948, withdrew on behalf of the protestant, the latter's objections to approval of the application.

Inasmuch as the application is now unopposed and a surplus of unappropriated water appears ordinarily to exist, which may be taken and used in the manner proposed by the applicant without injury to the protestant, the application should be approved.

oOo

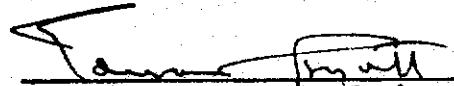
ORDER

Application 12202 for a permit to appropriate water 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 12202 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 16th day of Sept., 1949.




Edward Hyatt, State Engineer