

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 12074 by Woodland Farms, Inc. to
Appropriate Water from Willow Slough Tributary to Sacramento River in Yolo
County for Irrigation Purposes.

oOo

Decision A. 12074 D. 621

Decided October 13, 1949.

oOo

Appearances at Hearing Held at Sacramento, March 24, 1949:

For the Applicant

Woodland Farms, Inc.

Martin McDonough, Attorney

For the Protestants

O. M. Colburn

O. M. Colburn

Walter R. and)
Lena M. Strawbridge)

Walter R. Strawbridge

Lloyd M. Eveland

No appearance

Felix Karrer

No appearance

EXAMINER - GORDON ZANDER, Principal Hydraulic Engineer, Division of Water
Resources, Department of Public Works, for EDWARD HYATT, State Engineer.

Also in attendance: Harrison Smitherum, Supervising Hydraulic Engineer,
Division of Water Resources, Department of Public Works.

OPINIONGeneral Description of the Proposed Development

It is proposed under the application to divert 200 cubic feet per second from Willow Slough, from March 1 to October 31 of each season, for irrigation purposes. The point of diversion is described as lying within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 8, T 9 N, R 3 E, M.D.B.&M. and redirection is contemplated at a point within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 6 of the same township. Diversion is to be effected by means of a pumping plant of a capacity of 89,760 gallons per minute. The place of use is made up of lands aggregating 17,628.32 acres of which 6000 acres are reported to be in rice, 10,000 acres in irrigated pasturage and the remainder in general crops. These lands lie in Sections 25 and 36 of T 10 N, R 2 E, Sections 1, 11, 12, 13 and 24 of T 9 N, R 2 E, Sections 30, 31, 32 and 33 of T 10 N, R 3 E, and Sections 4 to 11 inclusive, 14 to 23 inclusive, 26 to 29 inclusive and Sections 33 and 34 of T 9 N, R 3 E, M.D.B.&M. The channel of Willow Slough and the borrow pit of The West levee of Yolo Bypass are to serve as main conduits.

PROTESTS

O. M. Colburn protested on grounds of insufficiency of water in the source filed upon. He states that there are seasons when crops are lost on account of lack of water in Willow Slough. He claims to have used water since 1905, in varying amounts, depending upon the crops planted. At different times he claims to have raised and irrigated alfalfa, beets, tomatoes, sudan, grain, rice and pasturage. His diversion is said to head within Section 15 of T 9 N, R 2 E, M.D.B.&M. He stated that his protest may be disregarded and dismissed if the interested parties reach an agreement that is acceptable to him.

In answer to the Colburn protest the applicant states that Protestant Colburn cannot be injured by the proposed diversion inasmuch as his intake lies upstream from the point of diversion proposed in the application. The applicant further asserts that it does not seek by its application to obtain any rights superior to any rights that the protestant may have had in Willow Slough waters, and avers that the granting of the application will not in any way affect such rights.

Walter R. Strawbridge and Lena M. Strawbridge protest that they will be injured by the proposed appropriation because there have been seasons during which they have lost crops because of lack of water in Willow Slough. They claim that water has been used on their land since about 1913, that they irrigate alfalfa, beets and grain, and that they divert water at points within the N $\frac{1}{2}$ of Section 11, T 9 N, R 3 E, M.D.B.&M. They state that their protest may be disregarded and dismissed in the event a mutual agreement is reached in the matter.

The applicant answers the Strawbridge protest by disclaiming any desire to infringe upon prior existing rights, and by pointing out that these protestants' diversions head upstream from the point of diversion described in the application and that injury therefore cannot result from the appropriation sought.

Lloyd M. Eveland and Felix Karrer protest that the proposed appropriation will injure them by preventing them from irrigating 100 acres that have been irrigated heretofore. They claim that use of water on their land began prior to 1914, that the quantity which they use is 4 cubic feet per second, that use extends from June 1 to September 1, that crops irrigated include sugar beets, tomatoes and other crops, and that their point of diversion is located

within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 14, T 9 N, R 2 E, M.D.B.&M. They state that their protest may not be disregarded and dismissed under any conditions.

The applicant answers the Eveland-Karrer protest by stating that as those protestants' diversions head upstream from the point of diversion proposed in the application, they cannot suffer injury from the appropriation sought. The applicant states that it does not seek by its application to obtain rights superior to any rights that the protestants now hold.

HEARING HELD IN ACCORDANCE WITH THE WATER CODE

Application 12074 was completed in accordance with the Water Code and the Rules and Regulations of the Division of Water Resources and being protested was set for public hearing under the provisions of Article 13, Section 733(a) of the California Administrative Code on Thursday, March 24, 1949, at 10:00 o'clock A.M. at Room 401, Public Works Building, Sacramento, California. Of the hearing the applicant and the protestants were duly notified.

General Discussion

At the hearing it was established that the lands of Protestant Colburn and of the Protestants Strawbridge lie upstream from the applicant's proposed point of diversion and that the direction of flow in the channel in question is downstream, i.e. that water first flows past the Colburn property and the Strawbridge property and then flows on to the point of diversion described in Application 12074. Protestant Colburn conceded that surpluses occur at times, and that by reason of the relative location of the properties it is possible for him to divert water before it reaches the applicant. Protestant Strawbridge stated that he was in about the same position as Protestant Colburn.

In view of the information set forth in their protest it appears that Protestants Eveland and Karrer, who were not represented at the hearing, are in the same relative position in the matter as are Protestants Colburn and Strawbridge,

their point of diversion lying between the lands of the latter protestants.

Inasmuch as all of the protestants divert water at locations upstream from the applicant's proposed point of diversion and inasmuch further as no unusual circumstances are seen to exist that might give rise to injury to any protestant as a result of the proposed appropriation, the several protests against the approval of Application 12074 are adjudged insufficient and are hereby dismissed.

SUMMARY AND CONCLUSIONS

Unappropriated water exists at times in the source from which appropriation is sought under Application 12074. Such water may be taken and used as proposed in that application without injury to other users from that source. The application should be approved subject to the usual terms and conditions.

oOo


ORDER

Application 12074 having been filed with the Division of Water Resources as above stated, protests having been filed, a public hearing having been held and the State Engineer now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 12074 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 13th day of October, 1949.




Edward Hyatt, State Engineer.