

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

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In the Matter of Application 12579 of Bodega Bay Public Utility District to appropriate water from an unnamed spring tributary to Bodega Bay in Sonoma County for municipal purposes.

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Decision A. 12579 D. 624

Decided October 13, 1949

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IN ATTENDANCE AT INVESTIGATION CONDUCTED BY THE DIVISION OF WATER RESOURCES AT THE SITE OF THE PROPOSED APPROPRIATION ON MAY 18, 1949:

Harold Ames	President	)	
George Helwig	Director	)	
Charles Colombo	Director	)	of Applicant
D. H. Fouts	Clerk	)	District
R. M. Starns	Engineer	)	
W. J. Robertson	Protestant	)	
Frank Moura	A former protestant	)	
A. S. Wheeler	Associate Hydraulic Engineer and	)	
Kenneth Woodward	Assistant Civil Engineer, Division of Water Resources, Department of Public Works, Representing the State Engineer	)	

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OPINION

General Description of the Project

Application 12579 filed July 1, 1948 by Bodega Bay Public Utility District contemplates a diversion of 0.1 cubic foot per

second from an unnamed spring in Sonoma County, throughout the year, for municipal purposes. According to the application that spring is located within the NE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 26, T 6 N, R 11 W, MDB&M, diversion will be made by pumping and delivery by 2 inch pipe line, and the project will include a 250,000 gallon storage reservoir. The place of use designated is the town of Bodega Bay (in projected Section 35 of T 6 N, R 11 W, MDB&M), which is said to have a present population of 500 and to have 5 fisheries.

#### Protests

Of two protests filed against Application 12579 the protest by Frank Moura was subsequently withdrawn.

The remaining protest, standing in the name of Zella E. and W. J. Robertson represents that the proposed appropriation involves taking water which has been used by those protestants and their predecessors on their property since prior to 1900. The Robertsons represent further in their protest that they use about 2,500 gallons per day, and that the amount filed upon under the application is greater than the yield of the spring. They state that their protest may be disregarded and dismissed if they are guaranteed that they will have sufficient water to operate their property and that their pumping plant will not be disturbed.

In answer to the Robertson protest the applicant states that the spring in question never has been fully developed, that surplus water is allowed to waste into Bodega Bay and that considerable water could be salvaged by proper development. The applicant states

that the spring referred to is a vital link in the proposed water system, that all water for the project is to come from nearby springs, all of which to the limit of availability must be included. The applicant further states that the protestants will be allowed to maintain their own pumping plant at the spring if they so desire provided that the water pumped by them is reasonable in amount in the light of the moral right of the public to water not presently utilized. The applicant alleges that the proposed appropriation will harm no one but will benefit the entire district and make it possible for all residents to have water which they do not have at the present time.

#### Field Investigation

The applicant and the protestants 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 May 18, 1949 by engineers of the Division. Both the applicant and the protestants were represented during that investigation.

#### Records Relied Upon

Application 12579 and all data and information on file therewith.

#### Discussion

According to the report of field investigation the yield of the spring under consideration varies from a low of some 6,680 to a high of some 8,000 gallons per day and the protestants' use ranges from about 2,500 to about 4,100 gallons per day. Evidently

a surplus of unappropriated water exists which may be taken and used in the manner proposed in the application without infringement of earlier rights. Such surplus under conditions up to the present is much less than the 0.1 cubic foot per second (64,632 gallons per day) applied for but it is possible that a larger yield may be developed by more complete exploitation.

An agreement was executed in May, 1949 between the protestants and the applicant under the terms of which the protestants released their asserted rights in the spring designated in Application 12579 in consideration of certain assurances by the applicant, set forth in that agreement.

Inasmuch as unappropriated water exists under conditions heretofore obtaining, inasmuch as more water becomes available pursuant to the release of the protestants' asserted rights as set forth in the agreement above mentioned which is in effect tantamount to a withdrawal of the Robertson protest, and inasmuch finally as additional water may be developed by additional work which the applicant stands ready to undertake, it is concluded that the protest by Zella E. and W. J. Robertson against Application 12579 may be disregarded and that the application should be approved, subject to the usual terms and conditions.

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ORDER

Application 12579 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 12579 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

