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 11434 of Thomas J. Buchanan to Appropriate Water from Cottonwood Canyon Spring and from Jesus Creek, both in Los Angeles County and Tributary to Mojave Drainage Area, for Domestic Purposes.

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Decision A 11434 D 629

Decided October 21, 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 7, 1948:

Thomas J. Buchanan - Applicant

J. J. Heacock - Associate Hydraulic Engineer, Division of Water Resources Department of Public Works, Representing the State Engineer

The protestant, Augusta Kuenzel, was unable to attend the investigation and was unrepresented. She was interviewed at her home in Los Angeles on May 3.

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OPINION

General Description of Project

The project contemplates a diversion of 140 gallons per minute from Cottonwood Canyon Spring and 70 miner's inches from Jesus Creek, year-round, for domestic purposes. The points of diversion are described as being located respectively within the SE¼ NE¼ and within the NE¼ SE¼ of Section 22, T. 4 N., R. 8 W., S.B.B. and M. Diversion is to be by gravity, the proposed works including a concrete diverting dam 8 feet high and 20 feet long and a concrete pipe line 10 inches in diameter and approximately 5 miles in length. The place of use is to include the E½ of Section 1, the N½ NE¼ of Section 2 and 260 acres in the W½ of Section 12, T. 4 N.,

R. 8 W., S.B.B. and M. It is to be subdivided into 607 one-acre lots, 95% of which will be residential and the remainder, business. Gardens are expected to average ½ acre per lot.

Protest

Augusta Kuenzel protests that the proposed appropriation will cut off her water supply and impair the value of her ranch. She claims a right to divert from the sources named in Application 11434 and asserts that she has diverted the water which she claims, for over 25 years, and has used such water for irrigation and stock watering, from January to December, inclusive. Her point of diversion is described as lying within the N½ of Section 7, T. 4 N., R. 7 W. She states that her protest may be disregarded and dismissed if the applicant will pay one half of the cost of the construction work already done.

The applicant in answer to the protest asserts that the protestant has not used the water of Jesus Creek and Cottonwood Spring for eight years, that the Kuenzel property has been in litigation due to which it would probably be impossible to buy a half interest, that the pipe line is worthless due to deterioration, the intake and sand trap destroyed by flood and the reservoir in need of extensive repair. He urges that "this fine stream" be taken out of "cold storage" and that he be given an opportunity to develop it.

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 May 7, 1948, by an engineer of the Division. The applicant was present during the investigation. The protestant was unable to attend the investigation but was interviewed at her home in Los Angeles on May 3.

Records Relied Upon

Application 11434 and all data and information on file therewith.

Discussion

Protestant Kuenzel's objection to the proposed appropriation is based upon rights initiated by the filing of Applications 460 and 4154. These applications were approved and rights to which the protestant eventually succeeded were duly confirmed by the issuance of Licenses 440 and 1171. However, these rights became forfeited under the provisions of Section 1241 of the State Water Code, and by order dated July 15, 1949, Licenses 440 and 1171 were revoked. In view of the revocation of these licenses the basis for Augusta Kuenzel's protest against Application 11434 no longer exists and that protest is therefore dismissed as invalid.

Whether or not water in the full amount applied for under Application 11434 exists at the points of diversion proposed thereunder is problematical. According to the report of investigation of May 7, 1948, the flow in Jesus Canyon was 20 gallons per minute and that flow was said to be fairly stable. The extent to which this amount may be increased by development, and the amount that can be developed at Cottonwood Canyon Spring, are unknown. The amount Protestant Kuenzel was authorized to divert under Applications 460 and 4154 (Licenses 440 and 1171), was not to exceed 0.04 cubic foot per second.

While indefinite as to amount, it is apparent that some surplus, unappropriated water exists in the sources from which Applicant Buchanan proposes to divert. The protest by Augusta Kuenzel having been dismissed and no other protests standing against Application 11434, no bar is seen to the approval of that application. In view of the circumstances Application 11434 should be approved subject to the usual terms and conditions.

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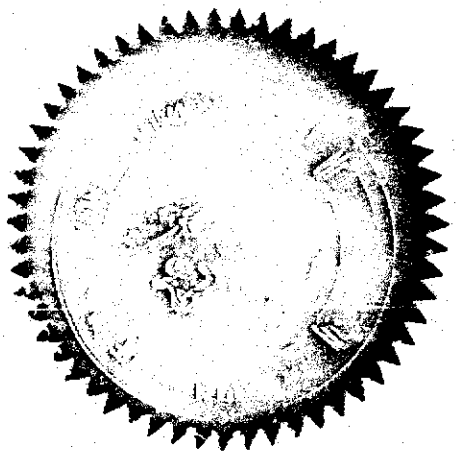
ORDER

Application 11434 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 11434 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 21st day of October, 1949.



Edward Hyatt, State Engineer