

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 12443 of Dr. George Ehrmann and Dixie Miller Conway to Appropriate Water from an Unnamed Spring Tributary via The North Fork of Matilija Creek to Ventura River in Ventura County for Domestic Purposes.

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Decision A. 12443 D. 633

Decided November 9, 1949

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In Attendance at Investigation Conducted by the Division of Water Resources at the Site of the Proposed Appropriation on June 8, 1949:

Dr. George Ehrmann	Applicant
Kenneth Sheldon	Protestant
William T. Selby	Attorney, and
D. H. Colton	Superintendent, for Rancho Ojai Mutual Water Company, Protestant
Michel Etchart	Protestant
J. J. Heacock	Associate Hydraulic Engineer Division of Water Resources Department of Public Works, representing the State Engineer.

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OPINION

General Description of the Project

Application 12443 was filed by Dr. George Ehrmann and Dixie Miller Conway on March 29, 1948. It contemplates a diversion of 0.01 cubic foot per second throughout each year, from an unnamed spring in Ventura County, tributary

to Ventura River, via North Fork of Matilija Creek, for domestic purposes. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 21 of T 5 N, R 23 W, S.B.B.&M. The water is wanted for the domestic requirements at a health center which is expected to house 25 persons, and for the irrigation of a 1/2 acre garden. The establishment described is to be located within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of the section above described. It is proposed to effect diversion by means of a small concrete dam (1 foot high by 3 feet long), and to convey the water by gravity through some 1500 lineal feet of 3/4 inch pipe to the place of use. The applicants state that the land to be served has another source of supply, other than that currently applied for.

PROTESTS

Kenneth P. Sheldon protested the application for the alleged reason that the proposed appropriation will diminish the flow of the North Fork and thereby deprive him of water to which he is entitled by virtue of an early filing and continuous use thereafter. He states that he uses water to irrigate 12 acres of oranges and for domestic purposes, his diversion heading within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 28, T 5 N, R 23 W, S.B.B.&M. He states that his protest may be disregarded and dismissed if he is guaranteed a minimum of 30 (miner's) inches at his point of diversion at all times.

Rancho Ojai Mutual Water Company protested for the reason that it allegedly uses all the water flowing in Ventura River and that any additional diversions above its intake will diminish its supply. It claims a right to the water which it uses, based upon riparian ownership, prior appropriation and court adjudication. It claims to have used 231 miner's inches of continuous flow, that it diverts throughout the year, at a point within the NE $\frac{1}{4}$ of Section 33, T 5 N, R 23 W, S.B.B.&M., for delivery to some 400 domestic

connections in the Meiners Oaks area and for irrigation use in the same vicinity.

Michel Etchart protests in effect that the flow of Ventura River is already insufficient and that the proposed appropriation will further aggravate that condition. He claims both a riparian right and an early appropriative right, such rights entitling him to divert a total of 15 (miner's) inches, year round. He states that his point of diversion is located within the SW¹ NE¹ of Section 33, T 5 N, R 23 W, S.B.B.&M.

In answer to the several protests the applicants state in effect that the North Fork of Matilija Creek flows for about 1/2 mile through their lands, that along that reach their lands contribute a steady flow of spring water some 5 (miner's) inches in amount, that in preference to using such spring water, because it occurs at relatively low elevations, they seek to develop a gravity flow, as from the source filed upon.

Field Investigation

The applicants 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 June 8, 1949 by an engineer of the Division. Both the applicants and the protestants were present or represented during that investigation.

Records Relied Upon

Application 12443 and all data and information on file therewith.

Discussion

Some confusion exists as to the name of the stream to which the source filed upon is tributary. It has been variously called the North Fork, the North Fork of Ventura River and the North Fork of Matilija Creek. In the matter at issue these three names evidently are synonymous. That stream unites with Matilija Creek to form Ventura River.

A gaging station has been maintained for several years on the North Fork and another on Matilija Creek. These are located 0.5 mile and 0.4 mile above the junction of these two streams, and the records appear in detail in U. S. Geological Survey Water Supply Papers. From these records it appears that the flow of the North Fork is usually more than sufficient to meet the reasonable needs of Protestant Sheldon, who diverts from that stream. The same records indicate that the combined flow of the North Fork and Matilija Creek is probably more than sufficient to fulfill the reasonable requirements of the protestants diverting from Ventura River (Michel Etchart and Rancho Ojai Mutual Water Company), on average, but that the supply so afforded is by no means firm and that periods of shortage frequently occur.

Whether the abstraction of so small an amount as 0.01 cubic foot per second, far upstream, as proposed by the applicants will have noticeable affect on the supply at the protestants' points of diversion is problematical. The report of investigation mentions a barrier across the canyon within which the spring the applicant proposes to tap is located, which barrier tends to deflect the underflow. Whether the underflow so deflected later enters the North Fork or Ventura River above the protestants' intakes cannot be determined from the information at hand. The report of investigation also mentions a considerable stand of wild vegetation below the applicants' proposed point of diversion, a circumstance suggestive of present dissipation of the water applied for by transpiration.

Despite the absence of conclusive information in the matter the protestants, after visiting the site and discussion with Applicant Ehrmann, decided (according to the report of investigation) that very little of the water proposed to be diverted would be available to them in any event, and that

on the contrary most of it would be lost by transpiration or evaporation, and that if the applicants did not proceed under their application they would divert from springs on their property, which presumably would be definitely detrimental to lower users. For the reasons mentioned the protestants decided to withdraw their protests and subsequently did so.

In view of the withdrawal of the protests and of the probability that supply ordinarily exceeds requirements, it is concluded that a surplus at times exists at the source mentioned in the application and that such surplus may be taken and used by the applicants in the manner proposed, without injury to lower users. The application therefore should be approved, and permit issued, subject to the usual terms and conditions.

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ORDER

Application 12443 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 12443 be approved and that a permit be issued to the applicants, 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 9th day of November, 1949.


Edward Hyatt, State Engineer.

