

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 12388 by L. E. Needham to Appropriate
12 Gallons per Minute from an Unnamed Spring Tributary to North Fork
of Matilija River in Ventura County for Domestic and Recreational
Purposes.

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Decision A. 12388 D. 651

Decided March 24, 1950

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IN ATTENDANCE AT INVESTIGATION CONDUCTED BY THE DIVISION OF WATER
RESOURCES AT THE SITE OF THE PROPOSED APPROPRIATION ON JULY 27, 1949:

Milton E. Ramelli	Representing the Applicant.
Kenneth P. Sheldon	Protestant.
D. H. Culton	Superintendent, Rancho Ojai Mutual Water Company, representing that protestant.
William Etchart	Representing Protestant Michel Etchart.
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 12388 contemplates an appropriation of 12 gallons per minute, year round, from an unnamed spring, tributary to North Fork of Matilija River, at a point within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 16, T 5 N, R 23 W, S.B.B.&M., in Ventura County, for domestic and recreational purposes. Diversion is to be effected by means of a concrete dam 2 feet long by 2 feet high. The conduit is to be a 2 inch pipe line, 2000 feet long, falling a total of about 200 feet. The water is to be used for domestic and recreational purposes at an establishment known as "Wheeler's Hot Springs Resort", a group of 16 dwellings with appurtenant gardens and lawns and a population of 64 persons. Recreational use is to include the supply of a swimming plunge.

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 which he claims by virtue of an early filing and long continued use. He states that he uses water for irrigation of 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, claiming that it uses all the water flowing in Ventura River and that any additional diversions above its intake will create shortage. It claims a right to the

water which it uses by virtue of riparian ownership, prior appropriation and court adjudication. It claims that it has used 231 miner's inches of water continuously, that it diverts throughout the year, its intake being located within the NE $\frac{1}{4}$ of Section 33, T 5 N, R 23 W, S.B.B.&M., and that it delivers to some 400 service connections in the Meiners Oaks area and to irrigators in the same locality.

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, his rights amounting in all to 15 miner's inches, year round. His point of diversion, he states, is located within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 33, T 5 N, R 23 W, S.B.B.&M.

In answer to each of the protests the applicant states that he is an upper riparian owner, that the amount of water supplied by the source from which he seeks to appropriate has been insufficient to reach the North Fork of Ventura River, that his proposed development will so increase that flow as to create an excess of water beyond his needs and that that excess will enter the said North Fork to the benefit of the protestants.

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 July 27, 1949 by an engineer of the Division. The applicant and the protestants were present or represented during that investigation.

Records Relied Upon

Applications 11311, 11430, 12297, 12388 and 12443 and all data and information on file therewith.

Discussion

The stream to which the source filed upon is tributary is called North Fork of Matilija River in the application but it is sometimes called North Fork of Ventura River also, or simply North Fork. North Fork and Matilija Creek unite at a point within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 28, T 5 N, R 23 W, S.B.B.&M. to form Ventura River. From this junction the source filed upon scales roughly 2.25 miles upstream. From the same junction Protestant Sheldon's intake scales 0.1 mile upstream and the Rancho Ojai Mutual Water Company intake and the Etchart intake scale respectively 0.6 and 0.9 mile downstream. The 2 last named protestants thus are in a position to receive some water from Matilija Creek as well as from North Fork, whereas Protestant Sheldon's supply comes from North Fork alone.

Information collected in connection with Applications 11311, 11430, 12297 and 12443 indicates that surpluses occur in North Fork and in the upper reach of Ventura River at times which however are interspersed with times of definite water shortage. The approval of Application 12443 for 0.01 cubic foot per second from an unnamed spring tributary to North Fork was justified mainly because of the probability that little if any of the water therein filed upon would be available to the protestants thereto in any event, due to evapo-transpiration losses. Applications 11311 and 11430, also approved, are for considerable amounts (8000 and 4300 acre feet per annum respectively) but they are storage

developments calculated to intercept and conserve surpluses and not to interfere with low water flow. Application 12297 (0.5 cubic foot per second) was approved as a partial supply.

The situation as to Application 12388 is somewhat similar to that obtaining in the matter of Application 12443, the amount applied for being quite small and doubt existing that the water filed upon would ordinarily, in a state of nature, reach North Fork, thereby becoming available to the protestants. The spring filed upon was yielding a measured 8 gallons per minute at the time of the investigation (July 27, 1949), and there was surface flow from the spring to the North Fork. The parties present at the investigation agreed that the surface flow just mentioned was abnormal for that time of year, due perhaps to the denuding of the locality of vegetation by the brush fire of September, 1948. Mr. Ramelli (the applicant's representative) stated that the spring yielded 12 gallons per minute in January, 1948. Mr. Ramelli stated with emphasis that in normal years the yield of the spring does not reach the North Fork. The investigating engineer reported a medium heavy growth of alder, sycamore, willows, etc. along the course followed by the spring water. According to the application map the spring is some 950 feet distant from North Fork. The investigating engineer is of the opinion that transpiration losses are negligible due to the destruction of brush by the recent fire and that the behavior of the spring at the time of the investigation is not representative of normal conditions. His report states that the gist of statements by parties attending the investigation is to the effect that water from the spring does not normally reach the stream during the summer months and that the yield

of the spring diminishes as the summer advances. Protestant Sheldon and Mr. Culton (representing Rancho Ojai Mutual Water Company) are reported to have remarked during the investigation that more benefit would result from return flow from the proposed place of use than from the water issuing at the undeveloped spring. Mr. Ramelli asserted that he himself owns property downstream to which both riparian and deeded water rights attach but that he had elected not to protest Application 12388, believing that his interests would not ^{be} injured by that proposed appropriation.

Incidental to the investigation of Application 12297 a review of available data indicated that surpluses have occurred in Ventura River and its upper tributaries most but not all of the time. The data include an 18 year stream flow record covering the period October 1928 to September 1947. According to the review mean discharge of North Fork exceeded estimated current demand from that stream during 17 of the 18 months of June in the record, and mean discharge of upper Ventura River exceeded demand therefrom during 15 of the same 18 months. These and corresponding figures for other months of the "dry" season are as follows:

Month	Times out of 18 that mean discharge exceeded mean demand	
	On North Fork	On upper Ventura River
June	17	15
July	14	11
August	12	9
September	12	7
October	13	10
November	15	12

The review also showed that although surpluses predominate, deficits have been numerous, and have extended for as much as 6 months. It is thus apparent that a water supply based upon an application filed on the North Fork under existing conditions may not be a firm supply, and that if a firm supply is required a supply derived through the filing of such an application will require supplementation from another source or from the same source under another right. In the latter connection the applicant asserts a riparian right and he also represents that the water which he seeks to appropriate does not reach the North Fork and that its diversion as proposed by him therefore cannot adversely affect lower users.

In view of all the circumstances - the existence most of the time of surpluses in the natural flow of North Fork, the likelihood that the spring flow filed upon may not during dry seasons actually reach North Fork and the possibility that by development that spring can be caused to yield more than in a state of nature - it is concluded that Application 12388 should be approved and permit issued, subject to the usual terms and conditions.

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ORDER

Application 12388 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 12388 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 24th day of March, 1950.

A. D. Edmonston
A. D. Edmonston
State Engineer

