

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 12335 by Lawrence K. and Maryetta E. Snyder to Appropriate Water from a Spring and from an Unnamed Stream, both Tributary to North Fork of American River in Placer County for Irrigation and Domestic Purposes.

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Decision A. 12335 D. 659

Decided April 17, 1950

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IN ATTENDANCE AT INVESTIGATION CONDUCTED BY THE DIVISION OF WATER RESOURCES AT THE SITE OF THE PROPOSED APPROPRIATION ON MAY 4, 1949:

Lawrence K. Snyder	Applicant
L. W. Johnson	Protestant
H. S. Milburn	Protestant
A. S. Wheeler	Associate Hydraulic Engineer Division of Water Resources Department of Public Works Representing the State Engineer

Also present: Mrs. L. W. Johnson.

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OPINION

General Description of the Project

The application contemplates an appropriation for direct diversion, year round, of 0.025 cubic foot per second from a certain spring and 0.050 cubic foot per second from a certain unnamed stream; also an appropriation of 3 acre feet per annum to be collected from the same unnamed stream between October 1 and March 1 and temporarily stored. The water is to be used for irrigation and domestic purposes. The spring

is tributary to the unnamed stream which in turn is tributary via Bunch Canyon to North Fork of American River. The proposed diversions are to head within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 22, T 14 N, R 9 E, M.D.B.&M., in Placer County. Diversion from the spring is to be by pumping and from the unnamed stream by gravity assisted by an earth and rock dam 7 feet high by 24 feet long which will also impound the water stored. Conduits will include a 1 $\frac{1}{2}$ inch pipe 450 feet long, leading from the spring and 300 lineal feet of 4 inch well casing heading at the reservoir. The place of use, which includes a dwelling, a half acre garden, a 1 acre orchard and 3 acres of general crops, lies within the same quarter quarter section. Irrigation is to extend from March to September, both inclusive. The applicants claim also a riparian right to the waters filed upon.

Protests

L. W. Johnson protests that the proposed diversion will not leave enough water in the stream to supply his domestic requirements. He claims a riparian right and the use of water for domestic purposes, including stock watering, within the N $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 22, T 14 N, R 9 E. He states that his protest may be disregarded if the applicants do not build a dam and do not withhold water or appropriate for any purpose other than their own domestic use.

H. S. Milburn protests that the proposed development will seriously reduce the flow of water heretofore available to him, will leave an amount insufficient for his necessities, and will lower the ground water level. He claims that he holds a riparian right, that he diverts water within the SE $\frac{1}{4}$ of Section 23 of the township in question for domestic purposes including stock watering and for prospecting and

mining and that water has been used for those purposes since prior to 1905. He states that his protest may be disregarded if the applicants do not dam the stream, use water for domestic purposes only and allow the water to flow freely in the stream as heretofore.

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 May 4, 1949 by an engineer of the Division. The applicants and the protestants were present or represented during the investigation.

Records Relied Upon

Application 12335 and all data and information on file therewith.

Discussion

According to the report of investigation the source referred to in the application as "Unnamed Stream" is locally known as "Live Oak Creek", the surface^{flow}/of which at the time of investigation was 0.25 cubic foot per second at the applicants' property, 0.75 cubic foot per second at the Johnson place and 1.00 cubic foot per second at the Milburn place. The same report states that in the opinion of all of the parties there is no surface flow below the applicants' proposed intake after about June 15 but that there are numerous pools which are fed by subsurface flow. According to the same report the spring filed upon, the flow of which was estimated at 2.25 gallons per minute at time of investigation, yields a fairly constant flow, water from the spring does not reach the

protestants during the summer months, and the protestants do not object to the applicants' use of the spring water. The protestants' main objection, it is stated, to use of creek water by the applicants springs from the fear that the proposed dam will intercept subsurface flow and thus prevent the accumulation of water in the pools.

As to the extent of use of water by the protestants, Protestant Johnson according to the report of the investigation of May 4, 1949 uses "Unnamed Stream" for the watering of up to 15 head of livestock and for the subirrigation of some 5 or 6 acres of pasture, an area which is also supplied in part from a side ravine; and Protestant Milburn uses water from the same source for stockwatering only, his livestock drinking directly from the stream or from pools in the stream bed.

As to the protestants' apprehension that the proposed dam will cut off all subsurface flow it is noteworthy that the proposed dam according to the application is to be an earth and rock structure which presumably will not be either completely water tight or an obstacle to water movement underground. The effect of a permeable dam in such circumstances may actually be beneficial rather than adverse. In this connection it is stated that seepage through an earthfill dam located just below the applicants' property and built by one John H. Lienau supplied the protestants with more water during the summer of 1948 than would have been available normally.

The Lienau dam is said to impound approximately 10 acre feet. The flow in "Unnamed Stream" (Live Oak Creek) below the Lienau dam on June 17, 1949 was estimated by the engineer who investigated Application 12335 to be 0.10 cubic foot per second which in his judgment was ample

for the protestants' needs. Protestants Johnson and Milburn are considerably concerned over the Lienau development because of an arrangement included therein for the trapping and recovery of seepage passing the dam. Mr. Lienau has filed Applications 13160 and 13172 in connection with his project, under which applications he seeks to appropriate 22 gallons per minute and 26 acre feet per annum, for fish culture. In a discussion of the situation Mr. Lienau is reported to have stated that he has discontinued the recovery of seepage water - the practice objected to by the lower users - and will purchase water from the Pacific Gas and Electric Company to maintain water level in the reservoir when the surface flow of the stream fails. It is to be noted that Application 12335 is prior to Applications 13160 and 13172, the processing of which is as yet incomplete. It is apparent however that permeable dams insofar as they impound flood waters and do not hinder underflow, tend to relieve the extreme low water conditions which are so objectionable to downstream users.

In view of the flow observed at the time of the field investigation of Application 12335 and of the probability that such flow or a larger flow during winter months may be expected, it may be assumed that the 3 acre feet per annum applied for may ordinarily be collected in the manner proposed, and that such collection in storage will not injure lower users. Inasmuch as the protestants do not object to the appropriation by the applicant of water from the spring filed upon, no bar exists to the approval of that element of the application. With reference to the proposed diversion for direct application without storage, from "Unnamed Stream" (Live Oak Creek), it is apparent from

the information adduced that the proposed diversion of 0.05 cubic foot per second will not injure the protestants earlier than mid-June of a normal season, at least, nor thereafter in a season of more-than-normal supply, provided only that the subsurface flow be not impaired, to the disadvantage of stockwatering and sub-irrigation. From mid-June until October 1, when the irrigation season ends, surface flow ordinarily will be deficient but it may occur occasionally and when it does the applicant can use it to great advantage and without injury to the protestants.

For the reasons above stated no bar is seen to the approval of Application 12335, nor is necessity seen for curtailing the period to which diversion shall be confined. In the opinion of this office Application 12335 should be approved and permit issued, subject to the usual terms and conditions.

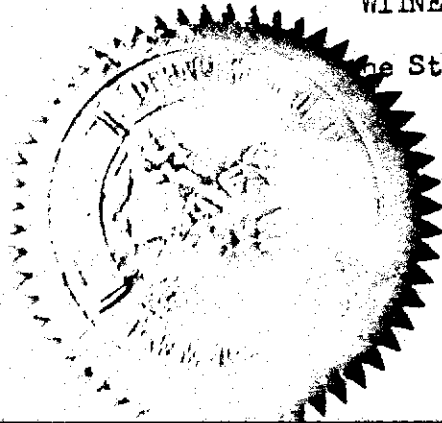
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ORDER

Application 12335 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 733(b) of the Administrative Code and the State Engineer now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 12335 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
the State of California this 17th day of April, 1950.



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