

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

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In the Matter of Application 13690 by Jack M. Greer, Jr., to
Appropriate Water from Paso Robles Creek Tributary to Salinas
River in San Luis Obispo County for Irrigation Purposes.

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Decision No. 13690 D. 720

Decided September 17, 1951

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IN ATTENDANCE AT INVESTIGATION CONDUCTED BY THE DIVISION OF WATER
RESOURCES AT THE SITE OF THE PROPOSED APPROPRIATION ON JANUARY 16,
1951:

Jack M. Greer, Jr.	Applicant
John K. Martin	Protestant
Lawrence Willey	Protestant
H. J. Franzen	Protestant
J. J. Heacock	Associate Hydraulic Engineer, Division of Water Resources, Department of Public Works, Representing the State Engineer

Note: Protestant Roy A. Bolding was present at a conference which
followed the field investigation.

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OPINION

General Description of the Project

The application contemplates an appropriation of 0.42 cubic
foot per second from April 1 to October 15 of each season, from Paso
Robles Creek, tributary to Salinas River, for irrigation purposes.

The proposed diversion is to head at a point within projected Section 35 of T27S R11E MDE&M, further described as located within the S $\frac{1}{2}$ of Lot 127, Rancho Paso de Robles. Diversion is to be by means of a 500 gallons-per-minute pumping plant. The conduit is to be a 6 inch pipe line, 1000 feet long and the place of use a 33 acre field of alfalfa located within Lots 127 and 128 of the same Rancho.

Protests

John K. Martin, Frank D. Johnson, Lawrence Lilley, E. J. Franzen, Joseph J. Plumm and Roy W. Dildine protest jointly. They represent that the flow of Paso Robles Creek is so small except during the rainy season that the diversion of 1 cubic foot per second (for which amount the application was originally filed) would result in virtual stoppage of all surface flow during the summer months. They assert dependence upon Paso Robles Creek for their normal water requirements for household use, stock watering and irrigation. They contend that they would be definitely injured by the diversion proposed by the applicant and that such diversion would constitute an intrusion on the water rights of property owners along Paso Robles Creek below the point at which the proposed diversion heads.

Louis Bergman protests the application, stating in effect that if the applicant diverts as proposed in the application, no water will be left in Paso Robles Creek for cattle and horses to drink in summer and fall, when pasturing on that protestant's land. He states that he waters 30 to 40 head of cattle during August, September, October and November, within Lot 125 of Paso Robles Rancho, that his use has extended

over 12 years and that similar use by his predecessors began prior to December 19, 1914.

Answers

The applicant answers the protest by John K. Martin et al. by stating in effect that his application is in the amount of 0.42 cubic foot per second only, that while the surface flow of Paso Robles Creek is small in summer and fall the subsurface flow in those seasons is considerable, that the diversion which he proposes will not affect the flow reaching the protestants materially, and that the protestants depend upon sub-surface flow rather than upon surface flow.

The applicant answers the protest by Louis Bergman by stating in effect that three years ago that protestant dammed Paso Robles Creek and has had and now has 50 acre-feet of water impounded behind that dam, that any water shortage suffered by Protestant Bergman is due either to operations by Protestant John K. Martin who began diverting for alfalfa irrigation some two years ago at a point upstream from protestant Bergman or by protestant Bergman's own action in himself damming the stream.

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 January 16, 1951 by an engineer of the Division. The applicant and the protestants were present or represented during that investigation.

Records Relied Upon

Application 13690 and all data and information on file therewith.

Discussion

According to the report of field investigation Paso Robles Creek, at the proposed point of diversion, drains a watershed of some 40.5 square miles of rolling hills and mountains. The report states that the valleys and bottom lands within that watershed are mostly open meadows, that the hills are covered with medium growths of oak and brush and that the mountains have a medium to heavy cover of oak, brush and conifers. The report states further that rainfall has been about normal during the current season, but that it was deficient during the 4 preceding seasons, that in 1950 continuous surface flow ceased in August but that pools along the stream remained full, that the underflow was substantial as evidenced by overnight recovery of pools drawn down by day time pumping and that surface flow at the time of the field investigation (January 16, 1951) was approximately 10 cubic feet per second.

As to the gross water supply available to the protestants, the report of investigation states that Santa Rita Creek furnishes a portion of that supply, entering Paso Robles Creek $\frac{1}{2}$ mile downstream from the applicant's proposed intake but upstream from all of the protestants. According to the report the Santa Rita watershed is about 22 square miles in extent, and is rougher and appears to have a higher rate of runoff than Paso Robles Creek. It states that surface flow fails earlier in Santa Rita than in Paso Robles Creek but that there is evidence of a

fair sustained sub-surface flow. It's surface flow at the time of the investigation, the report states, was about 10 cubic feet per second.

As to the protestants' use of water the report of investigation states that Protestant Bergman irrigates 14.5 acres of alfalfa and waters 10 to 20 head of cattle, his supply being obtained by pumping from a 48 inch casing 19 feet deep, at the side of the stream channel and that his shortage of supply is due to poor location of his sump rather than to insufficiency of streamflow; that Protestant Bergman's protest may be considered as having been withdrawn, his response to investigation notice reading in part, "I have informed you by letter some time ago that I am not interested in this case any more. It is a quarrel between two parties -----"; that Protestant Lilley irrigates about 2 acres by pumping from surface flow; that Protestant Dildine has irrigated 30 acres by pumping from a cased well 37 feet deep, located in the stream bank, is not irrigating currently and has withdrawn his protest; that Protestant Plumm irrigates 5 acres of alfalfa in the same manner as does Protestant Lilley; that Protestant Johnson has no plant but gets water for domestic purposes from Protestant Plumm; and that Protestant Franzen irrigates $1\frac{1}{2}$ acres of alfalfa by pumping from surface flow.

As to use of water by the applicant the report states that such use has been going on for about 5 years, the water being obtained by pumping from a natural pool in Paso Robles Creek, and used for the irrigation of 33 acres of alfalfa. The report quotes the applicant as stating that in the fall after surface flow has stopped he can pump the

pool down in 8 hours but that it is full the following morning.

Other information contained in the report of investigation is to the effect that the protestants are more concerned over upstream diversions in general than with the Greer application alone, that there is a fairly large diversion from a filtration gallery a half mile upstream from Greer, that Protestant Bergman has constructed a dam that impounds some 50 acre-feet of water on property which he owns on a tributary several miles upstream, that another rancher, also above Greer, has built or is preparing to build a dam, and that during another dry period upstream storage could seriously affect downstream flow.

No published records of the flow of Paso Robles Creek appear to exist. No other application to appropriate from Paso Robles Creek is before this office with the exception of one small filing (Application 3039) on a spring on the headwaters. Failure of surface flow in summer time with, however, continuation of sub-surface flow appear to be characteristics of both Paso Robles and Santa Rita Creeks, the latter stream contributing to the protestants' supply, as well as the former. Total diversions by the protestants are inconsiderable and are effected mainly by pumping from sub-surface flow. The development covered by Application 13690 appears to have been in operation for some 5 years without discernable effect upon the protestants' diversions. One protestant (Bergman) appears no longer to oppose the application and one signer (Eildine) of the other protest (John K. Martin et al.) withdrew his protest formally.

Based upon the information above set forth it is the opinion of this office that the development described in Application 13690 cannot injure the protestants materially if at all, and that the application should be approved, subject to the usual terms and conditions.

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ORDER

Application 13690 having been filed with the Division of Water Resources as above stated, a protest having been filed, a stipulated hearing having been held and the State Engineer now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 13690 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 17th day of September , 1951.

A. D. Edmonston
State Engineer

SCW:dm