

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 14099 by Griffith H. Wilson to
Appropriate Water from Dry Creek Tributary to Sacramento River in
Sacramento County for Irrigation and Stockwatering Purposes.

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Decision A. 14099 D. 740

Decided April 25, 1952

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In Attendance at Investigation Conducted by the Division of Water
Resources at the Site of the Proposed Appropriation on July 11, 1951:

Griffith H. Wilson	Applicant
A. C. Leppard	Protestant
James Bateman	An intervening water user
Kenneth L. Woodward	Associate Hydraulic Engineer, Division of Water Resources
A. S. Wheeler	Senior Hydraulic Engineer, Division of Water Resources, Department of Public Works, Representing the State Engineer.

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OPINION

General Description of the Project

The application initiated an appropriation of 0.107 (subsequently reduced to 0.03) cubic foot per second, year-round, to be diverted from Dry Creek at a point within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of projected Section 28, T10N R5E, MDB&M, for irrigation and stockwatering purposes. The place of use, a 9 acre pasture, lies within the same quarter-quarter section. Water is

wanted year-round for the watering of 25 head of dairy cattle, as well as a supply from March 1 to December 1 for irrigating the pasture. Another water right is claimed under License 1370 (Application 5828). The applicant reports the project to be already in operation.

Protest

R. E. Hayer and A. C. Leppard protest the application jointly, representing that the appropriation proposed therein will deprive them of sufficient water to irrigate land developed under Permit 7095. They base their claim of right to use of Dry Creek water upon riparian ownership as well as upon Permit 7095. They state that from May 10, 1950 to August 15, 1950 the supply from Dry Creek was insufficient for the irrigation of lands developed under their permit. They state further that their diversion heads within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 33, T10N R5E, MDB&M, and that due to the insufficiency of their supply from Dry Creek it has been necessary to dig a well and install a pump.

Answer

The applicant answers the protest by stating that his application was filed on the advice of the Department of Public Works, to cover the amount of water already being diverted in excess of the amount authorized in the permit he already holds. He states that he will not be using any more water if the application is approved, than he already has been using. He suggests that if the protestants will put their pump in the creek the necessity of the water rising 5 feet before it can enter their intake will be eliminated and there will be enough water for all.

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, Title 23, Waters, a field investigation was conducted at the site of the proposed appropriation on July 11, 1951 by an engineer of the Division. The applicant and the protestants were present or represented during that investigation.

Records Relied Upon

Application 14099 and all data and information on file therewith.

Discussion

The report of the field investigation of July 11, 1951 states in part as follows:

"Flow in the creek at the time of this investigation was about 1.5 cfs of which protestants were diverting about 1.25 cfs and Mr. Bateman about 0.25 cfs.

"Protestants claim that normally by June 1 the flow diminishes to the point where there is insufficient water to supply their needs and water has to be obtained from wells on their property. It was not necessary in 1951 to resort to the wells until July 1.

"Applicant claimed that he has been regularly using the water sought under the application for the past 5 years without injury to protestants and Mr. Bateman confirmed this and stated that such use had not appreciably affected his supply.

"The Whipple (Bateman)-Hayer dam backs water upstream for about one mile and applicant pumps from the reservoir thus created.

"Loss through this dam at the time of this investigation appeared to be sufficient to meet applicant's needs."

"The applicant stated that he only operated his pump, a 3 inch centrifugal, a maximum of 10 hours/week and then only on Saturdays and Sundays. It was accordingly suggested to him that he reduce the amount applied for to an amount more in keeping with his actual use. He was agreeable to this and then signed a written request

that the amount applied for be reduced to 0.03 cfs and the application has been so amended.

"Mr. Leppard was then asked if, in view of the small amount now sought and the fact that it would probably have no appreciable effect on his supply, he was agreeable to withdrawing the protest. He replied that any amount diverted by applicant would tend to decrease protestants' gravity supply and increase pumping and, therefore, it was desired to maintain the protest."

The applicant is entitled under Application 5828, Permit 3061, License 1370 to divert 11 000 gallons per day (about 0.017 cfs) from Dry Creek from about May 1 to about September 15, for the irrigation of 6 acres. It was noted from Licensee Wilson's periodic report for 1950 that use exceeded entitlement and this office suggested that the licensee file a supplemental application. Mr. Wilson responded by filing Application 14099. When the development under Application 5828 was inspected on October 11, 1932 the inspecting engineer observed that the amount of water applied in proportion to the acreage irrigated was unusually small. In this connection he reported

"_ - - - the ground surface is 6 feet or less above the pool of standing water and - - - - in all probability the bulk of the water consumed by the trees is supplied by lateral percolation."

Protestant Hayer is entitled under Application 11918 Permit 7095 to divert 1 cubic foot per second from Dry Creek from about April 15 to November 1 for irrigation. That application was filed by A. C. Leppard and R. E. Hayer, jointly. It was assigned by them to Ancil Hoffman who however subsequently assigned it to R. E. Hayer. The records indicate therefore that A. C. Leppard holds no right under Application 11918 at the present time. According to progress reports there have been deficiencies

of water supply, particularly during July and August.

Certain conclusions as to the flow of Dry Creek were reached following a study in connection with Application 12546, under which it was sought to appropriate 2 cubic feet per second from either or both of 2 tributaries of Dry Creek, year-round, for irrigation and domestic purposes. The diversions proposed in that application head far upstream from Applicant Wilson's proposed intake but Application 12546 was protested by the same parties that are currently protesting Application 14099. The investigation in connection with Application 12546 disclosed that the flow of Dry Creek until late spring is relatively plentiful, that it is derived mainly from upstream irrigation, that it becomes deficient on dates ranging from May 1 to June 15, and that it becomes plentiful again with the advent of the rainy season. It was concluded that Application 12546 should be approved with diversions thereunder restricted to periods extending from about November 1 to about May 31 and it was so ordered.

The conclusions reached in connection with Application 12546 appear applicable to the situation presented by Application 14099, the protest by Hayer and Leppard being the main obstacle to approval in both instances. Those conclusions in general are supported by the investigation made in connection with Application 14099. Unappropriated water evidently exists from about November 1 to about May 31. Application 11918 Permit 7095 (Hayer) provides for diversion from about April 15 to about November 1 only and therefore is not a bar to the issuance of a permit to Applicant Wilson to divert between about November 1 and April 15. From April 15 until about May 31 supply apparently exceeds both the amount authorized under Application 11918 and the amount sought under Application 14099.

In view of the circumstances above outlined it is the opinion of this office that Application 14099 should be approved, subject to the usual terms and conditions, but with diversions thereunder limited to the period from about November 1 to about May 31 of each season.

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ORDER

Application 14099 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 14099 be approved and that a permit be issued to the applicant, subject to such of the usual terms and conditions as may be appropriate and with the season of diversion limited to the period from about November 1 to about May 31 of each season.

WITNESS my hand and the seal of the Department of Public Works of the State of California this 25th day of April 1952.



A. D. Edmonston
State Engineer

