

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 14656 by Pine Cove Mutual Water
Company to Appropriate Water from an Unnamed Spring Tributary
via Stone Creek to Strawberry Creek in Riverside County for
Domestic Purposes.

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Decision A. 14656 D. 772

Decided February 16, 1953

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In Attendance at Investigation Conducted by the Division
of Water Resources on October 28, 1952:

R. R. Green, Maintenance Man, and	}	Representing the Applicant
E. L. Hamilton, Superintendent		
M. G. Brown, Zanjero		Representing the Protestants
J. J. Heacock, Senior Hydraulic Engineer Division of Water Resources Department of Public Works		Representing the State Engineer

Also interviewed by investigator: E. D. Woodward, protestants' vice-
president and general manager

OPINION

General Description of the Project

The application initiates an appropriation of 6 gallons per minute, year round, from a spring located at a point within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 31, T 4 S, R 3 E, SBE&M, for domestic purposes. The project includes a catch basin approximately 24 square feet in surface area, at the spring, a 170,000 gallon regulatory tank and 9,000 lineal feet of 1-inch pipe. The water is to be used at scattered locations within Sections 1, 2 and 11, T 5 S, R 2 E, SBE&M. According to the application the works were constructed in 1934 and the water has been in full use since that year. There are said to be 149 domestic connections, 9 commercial connections and 20 permanent and 129 summer and week-end residents.

Protest

Lake Hemet Water Company and Fairview Land and Water Company protest the application jointly. They argue that

" . . . the proposed appropriation will . . . lessen the flow of water in Strawberry Creek and deprive protestants of the beneficial use of water upon which the protestants hold prior valid appropriations for domestic and irrigation purposes, and which has been used continuously for many years last past by protestants"

They assert that their rights to the use of water include both appropriative and riparian rights and that said rights were adjudicated in Superior Court in 1894. As to their present and past use of water they state:

"Protestants began use of the water of Strawberry Creek and its tributaries prior to 1890, have so used same continuously ever since, the amount depended and depends upon demands of protestants' water users and supply from other sources of protestants; and water is so used during the entire year. The amount of use of water from Strawberry by protestants also depends very largely upon the quantity available in the stream at protestants' point of diversion. During wet years and during the winter and early spring of such years there is a surplus of water, available for all parties, but during dry years and during the spring and summer of a majority of years there is a shortage of water available at protestants' point of diversion and insufficient water to fulfill the prior appropriation for beneficial domestic and irrigation use of the waters of said Strawberry Creek by protestants, hence we protest the issuance of any further permits to divert more water above our heading. We believe that there are no unappropriated waters there.

They describe their diversion point as being located at about the center of the $S\frac{1}{2}$ $NE\frac{1}{4}$ of Section 28, T 5 S, R 2 E, SBB&M. As to their place of use they state:

"The lands to which said water has been continuously applied by protestants are situated in the San Jacinto Valley . . . in amount upward of 8,000 acres, and protestants supply domestic water to the inhabitants upward of 7,000 in number. This land embraces the City of Hemet, the townsite of Florida and surrounding valley land . . ."

The protestants state finally:

"This protest may be disregarded and dismissed if the applicant's permit is limited to an appropriation for storage or direct use of water during periods of heavy run-off and periods when there is an excess of water over and above prior appropriation . . ."

Answer

In answer to the protest the applicant states:

"Applicant is a mutual water company which has been operating a privately owned utility, furnishing water for domestic and commercial use in Pine Cove . . . It serves one hundred forty-nine (149) domestic and nine (9) commercial connections.

"That the company was organized in 1934 and has been since that date diverting water from the source set out in its application and in the quantities set out therein to serve a portion of its needs. That the company has certain other sources of water supply, namely, two springs and the surface flow of Logan Creek, but such sources are not sufficient for its needs and without the water mentioned in said application some of its users would be entirely without a supply. That said water has been used continuously and in the amount set out in the application for a period of more than eighteen (18) years without protest . . .

"That the purpose of making this application is to obtain a permit so that a right of way can be obtained from the Division of Beaches and Parks for the pipe line which has been in place and continuously used since 1934.

"That applicant does not contemplate the use of any additional water over and above the amount continuously used by it over the past eighteen (18) years."

Field Investigation

The applicant and the protestants with the approval of the Department having stipulated to the submittal of the application and protest upon the official records of the Department, a field investigation was conducted on October 28, 1952, by an engineer of the Division. The applicant and the protestants were represented at the investigation.

Records Relied Upon

Application 14656 and all data and information on file therewith; also records of the discharge of San Jacinto River as published in Water Supply Papers of the U. S. Geological Survey.

Information Secured by Field Investigation

Extracts from the report of the field investigation of October 28, 1952, setting forth salient facts ascertained during the course of that investigation, are as follows:

"The application shows the spring to be tributary to Stone Creek thence Strawberry Creek. The field investigation determined that it is definitely tributary to Stone Creek, which is tributary to the North Fork of San Jacinto River rather than Strawberry Creek.

"The project was completed in about 1934 and has been used continuously since that time.

"The source . . . is a side hill cienega with an area of about one acre lying high on the top of hog back ridge the contributory area is indeterminate. Average annual precipitation over the area is about 35 inches, of which a large proportion is in the form of snow.

"The point of diversion is at about the center of the cienega; the fern growth above the development is luxuriant and below is sparse, indicating that a major portion of the flow is intercepted."

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"The one-inch pipe is about 18 years old so the computed capacity is about ten gallons per minute but Mr. Green stated the maximum amount delivered is about . . . 8.33 gallons per minute.

"Flow from the spring at the time of the investigation was measured at about four gallons per minute and was made at about the time of year of the lowest yield."

* * *

"The protestants' system consists of Lake Hemet Reservoir on the South Fork of the San Jacinto River, in Sections 7 and 8, T 6 S, R 3 E, SBB&M, having a capacity of about 14,000 acre-feet; an irrigation surface diversion from the river in Section 28, T 5 S, R 2 E, being upstream from the mouth of South Fork and downstream from Strawberry Creek; an irrigation surface diversion from North Fork of San Jacinto River in the SW $\frac{1}{4}$, Section 17, T 5 S, R 2 E; and a domestic surface diversion in the NE $\frac{1}{4}$ of Section 17. Supplemental water is obtained from wells in the place of use, which is primarily on the valley floor in T 5 S, R's 1 W and 1 E. Their maximum annual use of water from the mountain sources has been about 10,000 acre-feet, with an average of probably about 9,000 acre-feet.

"The place of use of the applicant lies along the top of a ridge, in Sections 1, 2, and 11, T 5 S, R 2 E, that forms the watershed boundary between Strawberry Creek to the southeast and the North Fork of San Jacinto River to the

west. All of the cabins and establishments served are fully plumbed and have cesspools or septic tanks, and any return flow will enter the streams above the protestants' points of diversion.

"It is apparent from conditions on the ground that little if any of the normal summer and fall flow of the cienega would reach the North Fork under natural conditions; the water would be consumed by evapo-transpiration processes in the lower cienega and from bare slopes below. By transporting the water through the long pipe line and returning most of it underground much nearer the lower stream system, the net effect probably is an increment rather than a decrement to the lower stream flow.

"The protest was filed as a matter of policy. Mr. Woodward and Mr. Hamilton both stated that in view of the conditions and the length of time the water had been used, the issue would not be pressed, but also as a matter of policy the protest would not be withdrawn . . .

"The spring and a considerable length of the pipe line lie in Mount Jacinto State Park. At the time the project was constructed a temporary emergency permit was given . . . by the State Division of Beaches and Parks. There are several requirements that must be satisfied before a permanent permit can be issued and to date the Water Company has not fully complied with them."

Discussion

The report of field investigation establishes that while the unnamed spring filed upon is tributary to Stone Creek, Stone Creek is not tributary to Strawberry Creek but on the contrary discharges into North Fork San Jacinto River. It is evident therefore that the appropriation sought by the applicant cannot interfere with any diversion from Strawberry Creek or from San Jacinto River above the point where the North Fork enters that stream. The applicant's proposed diversion, in other words, cannot interfere with the protestants' diversion from San Jacinto River.

There remain to be considered the protestants' two diversions, mentioned in the report of field investigation, from the North Fork of

San Jacinto River. Stone Creek, to which the spring filed upon is tributary, enters the North Fork upstream from the points where those diversions head. The investigation develops that water emanating from the unnamed spring would probably not reach the North Fork of San Jacinto River during summer and fall but instead would be lost by evaporation and/or transpiration. It is improbable therefore that the appropriation sought by the applicant would ordinarily interfere, during summer and fall, with diversions by the protestants from the North Fork. When drouth conditions extend into winter or commence in spring as they are known sometimes to do, it is equally improbable that the relatively small yield of the unnamed spring would reach the North Fork.

The bulk of the runoff from the watershed of San Jacinto River occurs in winter and spring. The discharge of San Jacinto River, at a gaging station located one mile below the mouth of North Fork, has been measured since 1920 and the results published in United States Geological Survey Water Supply Papers. The flow at that point is partially regulated by Lake Hemet reservoir and the point itself is downstream from the protestants' diversions. Monthly mean discharges in cubic feet per second during 3 representative water-years (October 1 to September 30), according to the Water Supply Papers, at the station just mentioned, have been as follows:

<u>Month</u>	<u>1950-51</u>	<u>1944-45</u>	<u>1940-41</u>
October	0	0.08	0.179
November	0	21.8	0.439
December	0	3.12	42.1
January	0.05	1.61	21.7
February	0	53.5	73.5
March	0	88.7	316
April	0.57	68.0	312
May	0.20	11.3	124
June	0	0	27.8
July	0.08	0	0.03
August	0	2.36	0.30
September	0	.43	0.123
Mean for year	0.07	20.6	76.5
Percent of normal	0.32	95.3	354.0

The watershed tributary to the gaging station, according to the Water Supply Papers, is 140 square miles in extent. Of this the watershed lying above the protestants' lowermost intake on the North Fork scales roughly 25 square miles. In the absence of better information therefore 25/140 or about 18% of the drainage actually tributary to the USGS gage may be supposed to originate above the protestants' lowermost North Fork diversion.

Of the 3 water-years considered in the preceding paragraph the first (1950-51) was an extremely "dry" year, the second (1944-45)

a water-year of nearly normal runoff and the third (1940-41) a water-year of unusually heavy runoff. In a water-year such as 1950-51 drouth conditions evidently predominate in winter and spring as well as in summer and fall and it is improbable that the small yield from the unnamed spring can work its way into the North Fork. In a water-year such as 1944-45 and to a still greater degree in a water-year such as 1940-41, the figures indicate that unappropriated water exists at the USGS gage both in winter and in spring, and that unappropriated water, far in excess of the amount applied for by the applicant, probably exists at the protestants' intakes also.

Summary and Conclusions

Unappropriated water usually exists in the unnamed spring from which the applicant seeks to appropriate. Such water may be taken and used beneficially in the manner proposed in the application without injury to the protestants or to other downstream users. In summer and in fall the yield of the unnamed spring would probably be lost by evapo-transpiration before it could benefit users downstream. In winter and spring unappropriated water appears ordinarily to exist in the North Fork, in amounts greater than the yield of the spring.

In view of the circumstances above outlined it is the opinion of this office that the protestants' objections are insufficient to warrant disapproval of the application and that the latter therefore should be approved, subject to the usual terms and conditions.

ORDER

Application 14656 for a permit to appropriate water having been filed with the Division of Water Resources as above stated, a protest having been filed, stipulations having been submitted by the parties, a field investigation having been conducted and the State Engineer now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 14656 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 16th day of February, 1953.



A. D. Edmonston
State Engineer

