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 Applications 14335, 14336, 14596 and 14597 by John B. Gray to Appropriate Water from Certain Described Springs Tributary via Cherry Creek to Noble Creek in San Bernardino County for Domestic, Stockwatering, Irrigation and Power Purposes.

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Decision A. 14335, 14336, 14596, 14597 D. 821

Decided February 1, 1955

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Appearances at Hearing Held at San Bernardino on January 21, 1953

For the Applicant

John B. Gray — C. T. Waldo, Attorney at Law

For the Protestants

Orange County Water District — H. Rodger Howell, Attorney at Law

Anaheim Union Water Company, Santa Ana River Development Company, Santa Ana Valley Irrigation Company — Robert C. Mize, Attorney at Law

Beaumont Irrigation District — Robert E. Dauber, Attorney at Law

EXAMINER - MAX BOOKMAN, Supervising Hydraulic Engineer, Division of Water Resources, Department of Public Works, for A. D. EDMONSTON, State Engineer.

Also present - J. J. Heacock, Senior Hydraulic Engineer, Division of Water Resources.

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OPINION

Essential Features of the Projects

The applications initiate appropriations from 4 springs in San Bernardino County, the springs being tributary via Cherry and Noble Creeks to Santa Ana River, as follows:

Application 14335 for 0.35, 1.00 and 0.40 cubic foot per second, respectively, from Springs No. 1, No. 2 and No. 3, year round, for domestic purposes, irrigation and stockwatering, said springs being located 2435 feet north by 1257 feet west, 2192 feet north by 1093 feet west, and 3155 feet north by 2292 feet west, respectively, from the SE corner of Section 31, T 1 S, R 1 E, SBB&M. Diversion is to be effected by gravity, conveyance by pipe line. The proposed place of use is located within the S½ of the same Section 31. Use is to include the domestic requirements of 12 people in 3 houses, the irrigating of a 1/2 acre garden, the watering of up to 200 head of cattle, 50 horses and 50,000 poultry and the irrigation from April 1 through December 31 of 150 acres of pasture. The land to be irrigated, according to the application, has no other water right or source of water supply.

Application 14336 for 0.20 cubic foot per second, year round, from any or all of the same Springs No. 1, No. 2 and No. 3, the water to be used for power generation. A Pelton wheel is to be installed: maximum flow to be utilized 0.25 cubic foot per second, fall 250 feet, estimated theoretical horsepower 7.1, nozzle size 5/8 inch. The water so used is to be released, just below the plant, into a ravine leading to Cherry Creek.

Application 14596 for 0.05 cubic foot per second, year round, from a spring designated as Spring No. 4, located 3242 feet north by 227 feet west from the same SE corner of Section 31. Diversion is to be by gravity, with the aid of a concrete wall, 2 feet high by 5 feet long. The water is to be used for power generation at the same plant as described in Application 14336.

Application 14597 for 0.15 cubic foot per second, year-round, from the above described Spring No. 4, for domestic purposes, irrigation and stockwatering at the place of use described in Application 14335.

Protests

Orange County Water District filed substantially identical protests against all four of the applications. It asserts that it includes within its boundaries some 170,000 acres of land which lie within the Santa Ana River watershed and derive their water supply from Santa Ana River and tributaries; that all of the water flowing in Santa Ana River and its tributaries have long been appropriated and utilized beneficially; that no unappropriated water exists within that stream system now; that the diversions proposed by the applicant will result in a deficiency that will be transferred downstream to its (the protestant's) lands; that the applicant has no right to appropriate from the Santa Ana stream system; that the rights upon which the protest is based include riparian rights, rights of overlying owners to underground waters recharged from flow in Santa Ana River and tributaries, and rights by appropriation; that use under the rights

above asserted began as early as 1876, expanded rapidly during the first quarter of this century; that now and for several years last past the entire supply reaching Orange County is in beneficial use, year-round; that in protesting the applications it represents many landowners within its boundaries who have been applying and are applying the water under discussion, through various points of diversion from one boundary of the District to the other, for beneficial purposes.

Santa Ana River Development Company, Anaheim Union Water Company and Santa Ana Valley Irrigation Company filed joint protests against each application. These protestants allege that to the best of their information and belief the proposed appropriations will injure them and their stockholders, as well as Orange County water users dependent upon Santa Ana River, by depriving them and said other parties of water which they own and beneficially use. They assert that there is no unappropriated water in the springs filed upon nor in any other tributary of Santa Ana River and that the diversions that the applicant proposes will result in a deficiency of supply and that that deficiency will be transferred downstream to the lowermost users. They base their claim of a right to the use of water from the Santa Ana stream system upon appropriation and use of the entire surface and sub-surface flow of that stream system that reaches the Orange County line, and they assert that these uses extend year-round and serve agricultural, domestic, municipal and industrial purposes. They state that the protestant Santa Ana Valley Irrigation Company and the protestant Anaheim Water Company divert the entire flow

of the river into their canal systems during irrigation seasons and that all water not so diverted is naturally percolated for the purpose of recharging the underlying ground water supply. They assert that their 2000 stockholders who irrigate more than 20,000 acres will be damaged, individually and jointly, should the applications be approved. With reference to their claimed rights they further state:

> "Protestants are mutual water companies consisting of numerous shareholders whose individual and joint rights to the continued use without interruption of the water sought . . . by applicant are based on riparian rights, rights of overlying lands to ground water recharged from the flow in the Santa Ana River and its tributaries and the right of appropriators . . ."

These protestants state that their diversion heads within the SW¼ SW¼ of Section 26, T 3 S, R 8 W, SBB&M. They mention no terms under which their protests may be disregarded. As to the proposal under Applications 14336 and 14596 the protestants argue:

> "The proposed power use by applicant would create an unreasonable appropriation and use of the water in that it would increase the surface area of the water; it would increase the evaporation losses of the water; it would increase the transpiration losses of the water; it would permit more percolation than has previously occurred in the past thereby making more water available to current water users in the immediate area while depriving downstream water users of water which normally percolated at a lower point and it would increase the use of the water by putting it to a new and different use than it has heretofore been applied."

Beaumont Irrigation District did not file a protest prior to date of hearing. It did however enter a protest orally, at the hearing, through its attorney, who stated:

> "My name is Robert E. Dauber from Thompson & Colegate in Riverside, appearing for the Beaumont Irrigation District . . ." (page 7 of transcript)

* * *

"I would like this opportunity for the sake of the record of explaining that I am here to join in the protests made by the Orange County Water District and that . . . I will let them continue with the cross examination." (page 29 of transcript)

* * *

". . . our position is . . . we don't feel that there is any unappropriated water; and, secondly, we don't think that the water that comes from these springs -- we don't feel that Mr. Gray is legally entitled to that water, and we will stand on the evidence as presented here at this hearing to substantiate that protest." (page 44 of transcript)

Answers

In answering the protests against his applications the applicant denies that all of the water within the Santa Ana stream system has been or is appropriated and beneficially used, and alleges on the contrary that "substantial quantities of water flow into the Santa Ana River and its tributaries that have never been, and are not now, applied to useful or beneficial purposes." He denies that he has no right to appropriate for purposes as proposed and in that connection argues:

"That water sought to be appropriated (a) has never been appropriated, (b) that if any such water has been appropriated the right to such appropriation has been lost by nonuser and by lapse of time, and (c) that if any of such waters have been appropriated such waters have not been put to useful or beneficial purposes, or if they have been so put such waters have ceased to be put to some useful or beneficial purpose."

The applicant denies that his proposed diversions will result in any deficiency being transferred downstream, for the alleged reason that

"intervening appropriators and riparian proprietors through use of such water and through wastage prevent any such water reaching Orange County . . ."

Hearing Held in Accordance with the Water Code

Applications 14335, 14336, 14596 and 14597 were completed in accordance with the Water Code and the Rules and Regulations of the Division of Water Resources and being protested were set for public hearing under the provisions of the California Administrative Code, Title 23, Waters, on Wednesday, January 21, 1953, in the City Council Chamber, City Hall, San Bernardino, California. Of the hearing the applicant and the protestants were duly notified.

Gist of Hearing Testimony

Witnesses at the hearing testified in substance as follows: Henry B. Lynch, consulting engineer, testified (pages 9 to 15 of transcript) to the effect that Beaumont Irrigation District is in Riverside County, that the other protestants are in Orange County, that all the protestants are downstream from the applicant, that the applicant is the uppermost riparian owner upon the watershed, that he also has rights as an overlying owner, that the Forest Service has a very small appropriation above him, that below the applicant are numerous appropriators, the first one being Beaumont Irrigation District and another being Moreno Mutual, that as upper riparian owner the applicant has no obligation to the appropriators below him except that his use shall

be reasonable and beneficial, that the yield of the springs has not been measured, that in his opinion there is an ample amount of water underground but, at present, no surface flow, that it is "a couple of miles" from the springs via Cherry Creek to Noble Creek, that surface flow in Cherry Creek "is not continuous but that there is surface water through there", that there is a good deal of vegetation in the creek bottom. Witness Lynch testified further (pages 15 to 36 of transcript) to the effect that he is unaware of any diversion between the springs in question and the Beaumont Irrigation District intake, and that there is a continuous flow from the springs and from the intervening land between them. In the latter connection the witness testifies:

> "The springs themselves are more due to the topography of the land so that the water happens to accumulate there, but it is coming from San Gorgonio on the north, and when it comes to the San Andreas Fault line it follows along until it reaches a low place and goes across."

He testifies further that the springs are not right on Cherry Creek but are on "offshoots of branches", that there are defined channels from the springs but that normally they do not carry water, that water from the springs all reaches Cherry Creek but not necessarily on the surface, that there is considerable vegetation in the area of the springs and below them "until you get down into the canyon", that the Beaumont Irrigation District's water supply is "satisfactory" but "they don't have . . . as much water as they might want", that the ground water supply (within Beaumont Irrigation District) is overdrawn, that that condition has existed most of the time since

1922, that in general but with exceptions the entire watershed is overdrawn, that if the applicant did not use water from the springs it (the water) "would eventually find its way down either to the Beaumont Irrigation District . . . or perhaps even pass the fault lines . . . and down into the Beaumont plain", that downstream appropriators or users presumably then make use of it, that he (the witness) knows of no other springs similar to the springs in question in the vicinity of the applicant's property. The witness further testified (pages 23 to 36 of transcript) that the applicant's property is riparian to Cherry Creek, that Cherry Creek ultimately flows into Santa Ana River, that he has often visited Cherry Creek although not in recent years, that he has seen a little surface flow, in summer, between the spring locations and Cherry Creek and as far downstream as the Beaumont Irrigation District intake on Noble Creek, a total distance of 2 or 3 miles, that as to that reach continuous surface flow is occasional but not normal, that those occasions are after spring storms, "that if Mr. Gray did not use his water it would augment the amount that the Beaumont Irrigation District and the other users might use", that in a water producing area similar to Mr. Gray's there would be a tendency for surface flow to occur in spring and early summer but underground flow would be nearly constant, that Beaumont Irrigation District puts its water to beneficial use, that the 150 acres which the applicant proposes to irrigate is not all of the applicant's property, that neither of the power applications involves any storage

or entails any appreciable consumption of water, that Beaumont Irrigation District and Moreno Mutual Water Company are not supplied (so far as he knows) except through wells, that losses incidental to power development should be less than 1% of the water diverted for that purpose.

John B. Gray, the applicant, testified (pages 37 to 44 of transcript) to the effect that Spring No. 4 was on his land when Applications 14596 and 14597 were filed, that the State has since acquired it by condemnation except that he (Gray) is entitled to such excess over 2 miner's inches as Spring No. 4 produces, that 17 years ago Spring No. 4 supplied a C.C.C. camp, through a 1-inch pipe line, that said pipe line has since been pulled up, that at present in his opinion the springs are not flowing, that there "has been a trickle", that squirrels, quail, deer and livestock have watered from them and that the springs have supported box elders and other trees, that 2 gullies cross his land and empty into Cherry Creek, that the gullies do not collect surface flow "except in a very extreme downpour . . . or when there is a lot of snow melting", that the soils of the locality are porous and absorptive, and that ordinarily there is no flowing stream through his property.

Paul Bailey, consulting engineer, testified (pages 46 to 65 of transcript) to the effect that Orange County Water District includes some 180,000 acres on the coastal plain in Orange County, that the Santa Ana River traverses it and constitutes its principal source of supply,

that development within Orange County Water District represents a total value, considering agricultural and municipal areas, of probably over half a billion dollars, that this development has resulted mainly from the use of water from Santa Ana River, the water being obtained sometimes by diversion of surface waters and sometimes by pumping from wells fed by percolation from the river channel, that the water supply available to Orange County Water District has become increasingly deficient as compared with demand, that in 1945 according to a study by the State Division of Water Resources overdraft on underground supply amounted to 12,000 acre feet per annum, that a recent estimate indicates present overdraft to be 67,000 acre feet per annum, that increasing overdraft and decreasing supply force the District to resist further invasions of its Santa Ana River supply and to supplement that supply by importation of water from another watershed, that during the last 3 years the District has imported 91,000 acre feet of water purchased from Metropolitan Water District, that still more water is needed, that preparations are being made for larger importations, that such importations will suffice provided the Santa Ana supply does not further decrease, that the cost of importation warrants every effort being made to protect Orange County Water District rights, that an approximate measure of conditions is the amount of water in Santa Ana River that escapes into the ocean, that no large flows into the ocean have occurred since 1943, that it is his opinion, based upon his own personal studies, that all of the usable flow of Santa Ana stream

system is in use, that there is no unappropriated water within the watershed and that for every decrement of flow reaching Orange County due to new appropriation upstream, Orange County will be forced to buy an equal amount of Colorado River water, and that an upstream encroachment upon the flow of Santa Ana River, if no intermediate user "gives up" must finally be transferred to Orange County. As to the springs filed upon the witness testifies:

> ". . . The springs are in canyons or gulches, three in one and one in another, which . . . are indentations in this steep slope leading to the Gray property. And these indentations . . . are filled with detritus . . . of a porous nature . . . so that the runoff from the mountains . . . traverses . . . porous medium which has the capacity to absorb water. These springs . . . are . . . not in their natural condition. They had been disturbed . . . by trenching . . . so that greater seepage would come to any intake which might be established and that . . . the amount . . . applied for . . . could not be obtained without . . . considerable . . . development work to collect . . . water which is percolating through the detritus deposits . . ."
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> * * *
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> "So my conclusion . . . is that the applications do not apply to water flowing in a surface channel but are to appropriate . . . water which is now percolating through porous media which have no well-defined banks and sides . . ."

The witness further testified (pages 58 to 65 of transcript) to the effect that Santa Ana Valley Irrigation Company and Anaheim Union Water Company are within the territory of the Orange County Water District, that those companies in all irrigate approximately 25,000 acres, that they are supplied from Santa Ana River and tributaries, that they have contributed substantially toward purchasing Colorado River water to increase their supply, that the water now developed

on the applicant's property is not reaching Cherry Creek, that pipes are laid to permit irrigation of certain fields, that the pipe connects also with the applicant's home, that if the water were not diverted it would in his opinion continue underground and eventually join with other waters progressing toward Orange County.

Other Information

The San Gorgonio, San Jacinto, Elsinore and Redlands quadrangles of the United States Geological Survey indicate that the springs from which the applicant seeks to appropriate drain, successively, into Cherry Canyon, Noble Creek, San Timoteo Canyon and Santa Ana River. The channel distances from the vicinity of the springs to San Timoteo Canyon and to Santa Ana River scale respectively about 9 miles and about 30 miles. Channel distances from the same vicinity to the point at which the protestants (except Beaumont Irrigation District) divert, and to the ocean, scale respectively about 60 miles and about 85 miles.

The Water Supply Papers of the United States Geological Survey contain records of streamflow at numerous points within Santa Ana stream system. Among these are records, since 1926, of the flow of San Timoteo Creek (called San Timoteo Canyon on the map) at a point some 2 miles southwest of Redlands or 23 channel miles below the applicant's project. According to Water Supply Peper 1181, discharge of San Timoteo Creek near Redlands (the station mentioned) has averaged for 24 years but 1.71 cubic feet per second, the maximum

recorded discharge has been 7,460 cubic feet per second, flow is zero for several months of each year, and the entire flow normally is diverted above the station for irrigation.

Department Bulletin 53, "South Coastal Basin Investigation - Overdraft on Ground Water Basins," published in 1947, states with respect to Beaumont Basin:

> "Beaumont Basin . . . covers about 31 square miles . . . Topography is irregular with deeply incised channels. Slope . . . ranges from 100 to 600 feet per mile. Elevations . . . range from 2300 to 5500 feet. Soils are . . . quite absorptive. Municipal development occupies only about 3% of the area, about 13% is devoted to agriculture, and the remaining 84% is in a more or less natural state.
>
> "The local water supply, utilized through diversion from surface streams and through pumping from ground water, originates in precipitation on the valley and inflow from 1,550 acres of mountains and 8,320 acres of hills directly tributary . . .
>
> "A considerable part of the surface inflow and precipitation flows out into San Timoteo Basin, together with some underflow. Water is exported in relatively large amount to San Timoteo Basin, from which the major portion is re-exported to San Jacinto Valley.
>
> "Under terms of the Yucaipa Judgment the amount of water that may be pumped for export from the basin is dependent upon elevation of the water table . . . It is therefore considered that there is neither excess or overdraft in the basin . . ."

Beaumont Irrigation District at one time held Application 1837 Permit 1037 which however was revoked, at its holder's request, by order dated April 12, 1935. Application 1837 initiated appropriations of 6 cubic feet per second from Edgar Creek and 2 cubic feet from Noble Creek, the latter to be diverted at a point within the

NW¼ NE¼ of Section 23, T 2 S, R 1 W, SBB&M, for domestic purposes and irrigation of 3161 acres within the District's boundaries. According to a report of an inspection in connection with Application 1837 on June 4, 1923, Edgar Creek and Noble Creek are intermittent tributaries of Santa Ana River which have a surface flow in winter and a sub-surface flow in summer. The report states that the well which is the intake on Noble Creek is 36 feet deep (driven to bed rock) and that its flow varies from nothing to 8 miner's inches. According to a later report, the yield of the same well in 1925 ranged between the same limits. The progress reports indicate that the District made repeated efforts to secure a larger yield from Noble Creek and the Division granted successive time extensions to enable it so to do. On the District's progress report for 1930 appears the remark:

> "In the past 2 years a careful study of the geological formation supplemented by boring wells discloses that the water passes at right angles across the water canyons and that such passage is directed by impervious dykes, lying practically parallel, that these streams vary in size, some of them being very large, and further unless we strike the center of the stream the bore usually proves to be a dry hole."

The District sought and received one more extension of time, but by letter dated April 9, 1935 it requested revocation and its permit was accordingly revoked by Division order of April 27, 1935.

One active water right application only, other than the John B. Gray applications, is presently before this office. That is Application 14220 Permit 8786 by the State Division of Forestry to appropriate 0.05 cubic foot per second, year-round, from an unnamed

spring tributary to Cherry Creek at a point within the SE¼ NE¼ of Section 31, T 1 S, R 1 E, SBB&M, for domestic, irrigation and fire protection purposes. According to the descriptions in the applications the springs named in Application 14220 and in Mr. Gray's Applications 14596 and 14597 are so close together as to indicate that they are probably one and the same spring. Application 14220 was protested by the same protestants that protested the Gray applications. The conditions under which the protestants agreed that their protests might be disregarded and dismissed were, in effect, that use under any permit granted should be at the forestry camp in connection with its regular activities and that when need by the Division of Forestry is terminated delivery of water shall cease and the pipe lines be removed. The applicant Division of Forestry agreed to those conditions and the application accordingly was approved. According to progress report for 1952 use under Application 14220 Permit 8786 was being made, year-round "for domestic supply of the Oak Glen CDC Forestry Work Camp. This supplies 70 men including a camp laundry and washing automotive vehicles."

Information as to water supply conditions and utilization within Noble Creek watershed and Beaumont Irrigation District is contained in a United States Department of Agriculture progress report entitled "Utilization of the Waters of Beaumont Plains and San Jacinto Basin, California" dated February, 1941, by Messrs. Young, Ewing and Blaney. Extracts from that report are as follows:

"Beaumont Plains lie in the San Gorgonio Pass, astride the divide separating Whitewater River and Santa Ana River watersheds. It occupies an area of 52.9 square miles of which 21.9 square miles is mountainous and 30.0 square miles is valley land or low hills."

* * *

"The Plains lie at elevations between 2,500 and 3,000 feet. The climate is semiarid; rainfall occurring during the winter averages 19 inches at Beaumont and 22 inches near the mouth of Edgar Canyon."

* * *

"Beaumont Irrigation District has been operating successfully since 1921. The irrigated acreage outside the District comprises only a small part of the total and is made up principally of small and isolated tracts."

* * *

"The total area classified as being under irrigation during the season 1938-39 was 3,049 acres for which estimated consumptive use of water was 6,763 acre feet."

* * *

"Most of the surface water supply for Beaumont Plains originates in Edgar Canyon, but the shape and size of the watershed precludes an abundant production. The average long-term surface flow is estimated to be 6,600 acre-feet annually. Flood escape from Beaumont Plains by way of San Timoteo Creek is normally small but in periods of intense or prolonged precipitation it is capable of causing considerable damage. There is no surface storage. The inadequate surface water supply is supplemented by pumping for irrigation."

* * *

"Beaumont Plains is arbitrarily divided into 4 sub-basins having hydrologic distinctions in regard to the elevation of ground water. They are Beaumont Main Basin, Edgar Canyon Sub-basin, North Foothill Sub-basin, and South Foothill Sub-basin.

"In the more heavily pumped areas there has been a general drop in ground-water levels for many years. These changes are greatest near the western edge of Beaumont Main Basin and in Edgar Canyon Sub-basin . . ."

* * *

"Irrigation in the Beaumont Irrigation District is for 7 months, between April and November. Quantities now delivered during the past several years have been adequate, owing largely to above-normal rainfall, recharge, and new development. Deliveries during previous years of smaller water supply were close to the minimum allowance for productive agriculture, and with a recurrence of years of normal to below-normal water supply the quantities available for delivery may be expected again to fall below optimum requirements."

* * *

"The surface water supply of Beaumont Plains has been insufficient for the needs of irrigated crops, and water from this source has been supplemented by ground water extractions. Since about 1926 the draft on ground water has exceeded the natural replenishment resulting in a lowering of the water table.

"From 1921 to 1933 Beaumont Irrigation District water deliveries averaged about 9 inches per acre per season during a time when rainfall was slightly above normal, yet during this period a considerable drop in ground-water occurred. Since 1933 deliveries have been increased. It is evident that water used on the present irrigated acreage is in excess of replenishment and that recent increases may be maintained only with the accompaniment of further and more drastic declines in ground-water levels."

* * *

"Edgar Canyon Sub-basin - The area above the White Hill Fault drained by Little San Gorgonio (Edgar) and Noble Creeks."

* * *

"The Beaumont Plains is an area comprising approximately 22 square miles of upland watershed on the southerly

slope of San Gorgonio Mountain and some 31 square miles of valley land in San Gorgonio Pass. The maximum elevation of the watershed is about 8,800 feet, while the agricultural plain lies between the 2,500 and 3,000 foot contours. This portion of the basin is an alluvial fill of great depth with a large capacity for ground water storage.

"The steep face of the mountain area is cut by Edgar and Cherry Canyons, 2 narrow stream channels which follow nearly parallel courses to their junction . . . Below the canyon mouth the surface slopes fan out to the south presenting drainage westward to San Timoteo Creek, eastward to San Gorgonio Wash and southward to Potrero Creek and thence into the San Jacinto Valley.

"Noble Creek and Little San Gorgonio Creek drain most of the southerly portion of the watershed and provide most of the basin's water supply . . . Water from these and other small streams sinks into the alluvial fans to augment the underground supply."

* * *

"The narrowing shape of the watershed in its upper regions precludes any possibility of water production in large quantities except in occasional flash floods which are of little value, as they pass rapidly beyond the confines of the Basin."

* * *

"The source and extent of the ground water supply will have to be the subject of further studies . . . In certain sections the ground-water conditions are complex."

* * *

"Beaumont Main Basin . . . comprises the deep gravel-filled trough occupying the San Gorgonio Pass in the vicinity of Beaumont and extending for several miles east and west . . .

"On the north the White Hill Fault divides the Main Basin from the Edgar Canyon Sub-basin.

"The Edgar Canyon Sub-basin comprises the area above the White Hill Fault drained by Little San Gorgonio and Noble Creeks . . .

" . . . this fault is marked by a line of displacement and separates the shallow ground water of Edgar Canyon Sub-basin from the Beaumont Main-basin where the ground water is found at a much greater depth.

"Little San Gorgonio and Noble Creeks form the principal drainage entering from the north, flowing . . . south-westerly . . . crossing the White Hill Fault and passing thence into the Main Basin.

"The total area of the sub-basin is 16.9 square miles of which all but 2.3 square miles is mountainous. The valley area is confined largely to the narrow canyons traversed by Little San Gorgonio and Noble Creeks. Elevations extend from 2,900 to 8,800 feet . . . Vegetative cover is quite dense . . . "Wells penetrating the recent alluvium of the canyon bottoms have usually passed through a few feet of coarse gravel and boulders and then into alternate layers of coarse and fine stream-laid material.

"Some years ago several flowing wells were obtained in the lower part of the area, the White Hill Fault having apparently created the downstream barrier requisite to cause artesian effect in the gravel strata above. Heavy pumping during recent years has lowered the pressure surface so that flow is no longer possible and pump lifts of 175 to 200 feet are required in a number of wells.

"The ground water in this area has been heavily drawn upon for both local use and export to Beaumont Main Basin. Beaumont Irrigation District and its predecessor companies have taken surface flow in Edgar and Noble Canyons for many years for domestic use in Beaumont and irrigation of 2,000 acres of land lying below the White Hill Fault. Water is also pumped by private interests for irrigation within the sub-basin."

Discussion

Applications 14335 and 14336 call for a total of 1.95 cubic feet per second from Springs No. 1, No. 2 and No. 3; Applications 14596 and 14597 call for a total of 0.20 cubic foot per second from Spring No. 4. The applicant thus seeks an over-all total of 2.15 cubic

feet per second. Of this over-all total 0.25 cubic foot per second, year-round, is wanted for the generation of power. Such use is non-consumptive and since the water is to be returned to the natural drainage, just below the proposed powerhouse, its diversion and utilization for power generation by the applicant cannot affect any protestant adversely.

The amount that the applicant may reasonably require for his proposed domestic purposes, including stockwatering, based on entries in the applications and on average rates of consumption, is as follows:

12 people at 50 gallons per day		600 gallons per day
1/2 acre of irrigated garden (duty assumed 1:80)	4,000	
200 head of cattle at 15 gallons per day	3,000	
50 horses at 15 gallons per day	750	
50,000 chickens at 1/4 gallon per day	12,500	
	20,850	gallons per day
Miscellaneous needs (1/4 of above	5,212	
Total (about)	26,000	gallons per day
Equivalent to (about)	0.04	cubic foot per second

The diversion of 0.04 cubic foot per second by the applicant for domestic and stockwatering purposes is unlikely to affect any downstream user appreciably. The points at which the applicant would divert are remote from the point of diversion of any protestant, the work incidental to developing the applicant's supply would probably eliminate some losses by transpiration, and a portion at least of the water diverted would not be consumed but would pass underground to be available to downstream users, as before.

The amount that the applicant proposes to use for irrigation thus becomes approximately 2.15 - 0.25 - 0.04 or 1.86 cubic feet per second. The diversion of so considerable an amount cannot but reduce materially the net amount of water that would otherwise reach the intakes of downstream users. Such diversion would amount in the proposed 9-month irrigation season to 1.86 x 1.98 x 270 or about 994 acre-feet per annum. This is nearly 15% of the 6763 acre-feet estimated in the Young-Ewing-Blaney report as the consumptive use on Beaumont Plains. Since demand on Beaumont Plains reportedly exceeds supply already it is evident that further reduction of supply would worsen that local situation. Should the loss resulting from the applicant's proposed development not be absorbed on Beaumont Plains it would have to be borne by users farther down the stream system, to their manifest disadvantage.

Summary and Conclusion

The applicant seeks to appropriate a total of 1.90 cubic feet per second from four certain springs tributary via Cherry Canyon and Noble and San Timoteo Creeks to Santa Ana River, for domestic purposes, stock watering and irrigation; and to appropriate a total of 0.25 cubic foot per second, from the same springs for the generation of power. The protestants argue that the waters of Santa Ana River and tributaries are already appropriated in full and that the diversions proposed will injure them by diminishing the supply upon which they now depend.

Three of the springs are undeveloped. The spring designated as Spring No. 4 is developed, at least in part. Water from the undeveloped springs and any unconsumed portion of the water issuing from Spring No. 4 presumably percolates downstream and contributes to the supply available to water users on Beaumont Plains and/or downstream therefrom.

The available information indicates that the flow of Santa Ana River and its tributaries is practically all appropriated and that downstream users will in general be injured by additional diversions from the headwaters for consumptive use. It indicates however that the proposed diversion of 0.25 cubic foot per second for power development, a non-consumptive use, will not infringe upon any downstream right and that a diversion of not to exceed 0.04 cubic foot per second, an amount commensurate with the applicant's stated wants for domestic purposes and stockwatering, will not affect any downstream user materially, such diversion being relatively small in amount, probably offset in part by suppression of transpiration losses and for a use that is but partly consumptive. It indicates finally that the diversion of so considerable an amount as would be required for irrigation could not but reduce materially the flow, other than flood flow, reaching the properties of downstream users and would constitute an infringement of those users' rights.

The circumstances above summarized point to the conclusion that water from the springs filed upon by the applicant may be taken

and used in the manner proposed, insofar as the applications relate to domestic purposes, stockwatering and power generation, without material injury to any downstream user; they point to the conclusion also that the taking and use of said water for irrigation would constitute an encroachment upon apparently valid rights of numerous parties to divert at points downstream. It is the opinion of this office therefore that Applications 14335 and 14597 should be approved, subject to the usual terms and conditions but to such extent only as to authorize the diversion, year-round, of not to exceed a total of 0.04 cubic foot per second, with use thereunder limited to use for domestic purposes and stockwatering; and that Applications 14336 and 14596 should be approved as submitted, subject to the usual terms and conditions.

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ORDER

Applications 14335, 14336, 14596 and 14597 having been filed with the Division of Water Resources as above stated, protests having been filed, a public hearing having been held and the State Engineer now being fully informed in the premises:

IT IS HEREBY ORDERED that Applications 14335 and 14597 be approved and that permits be issued to the applicant in the reduced amount of 0.04 cubic foot per second under each application, with use under each said application restricted to domestic purposes and

stockwatering, subject to such of the usual terms and conditions as may be appropriate and subject to the following special term and condition, to wit:

> The amounts diverted under Applications 14335 and 14597 shall not at one time exceed a total of 0.04 cubic foot per second.

IT IS FURTHER ORDERED that Applications 14335 and 14597 insofar as they relate to diversions in excess of 0.04 cubic foot per second under either application be denied.

IT IS FURTHER ORDERED that Applications 14336 and 14596 be approved and that permits 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 1st day of February, 1955.

A. D. Edmonston
State Engineer