

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 15186 by Harry R. Groves to Appropriate
Water from Doolin Canyon, Tributary to Russian River, in Mendocino
County, for Domestic Purposes.

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Decision A 15186 D 832

Decided June 1, 1955

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In Attendance at Investigation Conducted by the Division of Water
Resources on May 12, 1954:

Harry R. Groves	Applicant
Hale McCowen, Jr.	Protestants' Attorney
R. W. Ryder	President and General Manager R. W. Ryder Engineering Company
Clifford Weddle	Interested party
K. L. Woodward Associate Hydraulic Engineer Division of Water Resources Department of Public Works	Representing the State Engineer

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OPINION

General Description of the Project

Application 15186 initiates an appropriation of 15,000 gallons per day, year-round, from Doolin Canyon, tributary to Russian River, at a point within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 25, T15N R13W, MDB&M. The works proposed include a dam, 5 feet high by 10 feet long, to be constructed of concrete and rocks, 5,900 lineal feet of 2-inch pipe line and a 90-gallon per minute pump. The water is to be used for domestic purposes at four dwellings, each within an appurtenant one-half acre requiring irrigation.

Protests

A protest was filed in the names of R. W. Ryder Engineering Co., Nelson Scribner Ryder and Elizabeth Scribner. It was signed "Betty Ryder, agent". That protest was followed by another protest marked "amended", in the name of R. W. Ryder Engineering Company, and signed "R. W. Ryder Engineering Co., R. W. Ryder, President and General Mgr.". Except as to the names under which the protests were filed and the signatures the protests are substantially the same. In both protests the protestants' diversion point is described as being located within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 30, T15N R12W, MDB&M. Both protests contain statements to the effect that the proposed appropriation will deprive protestants of water for domestic supply, stockwatering and irrigation;

in both protests, the claim is made that protestants' lands are riparian. Both protests contain the following statement:

"The water was first used by protestants beginning in 1928 and continuously since that time throughout the years for domestic purposes and for watering stock and from approximately April 15 to October 15 of each year for irrigating of Ladino clover."

According to the original protest, requirements for all purposes approximate 10,000 gallons per day. According to the amended protest, fruit trees and garden truck are also irrigated and use for all purposes approximates 40,000 gallons per day. Neither protest mentions terms under which the protest may be disregarded and dismissed.

A protest was filed also by one Melvina K. Jungers. This protestant claims to divert at a point within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 30, T15N R12W, MDB&M, downstream from the applicant's proposed point of diversion. She mentions no terms under which her protest may be disregarded and dismissed. She states in her protest:

"... the proposed appropriation ... will deprive me of water for my garden, as now it is necessary to put in a dam and accumulate water above it in order to have sufficient supply for the limited use I make.

"Protestant claims a right ... based upon the use ... since 1947, on land riparian to the stream situate in Yokayo Rancho and described as the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Sec. 30, Township 15 North, Range 12 West, M.D.M.

"The extent of present and past use ... is as follows: Since 1947 and from April 15 to October 15 of each year protestant has used all of the water that may be pumped through a 3/4" pipe for irrigating a lawn, flowers and shrubs around the personal residence"

Answers

The applicant answered the protest by R. W. Ryder Engineering Co., et al. and the amended protest filed in the name of R. W. Ryder Engineering Co. His two answers are practically the same and contain substantially the following statements:

"It will not deprive them of their domestic supply."

"As for irrigation, it is plenty ... if it is not wasted."

"It is true they have been using it for a number of years. If they want it so bad, why hasn't there been a claim filed on it?"

"Speaking of four ranches, there never has been but one as far as I know."

"In the first protest they claimed 10,000 gallons per day and in the second are claiming 40,000. How do they get that way?"

No answer to the protest by Melvina K. Jungers is of record.

Field Investigation

A field investigation of the water resources affected by the application was conducted by an engineer of the Division, under the provisions of Section 728, California Administrative Code, Title 23, Waters, on May 12, 1954. The applicant and the protestants were present or represented during the investigation. They subsequently stipulated to the submittal of the application and protests upon the official records.

Reports Relied upon

Application 15186 and all data and information on file therewith.

Information Secured by Field Investigation

The report covering the field investigation of May 12, 1954, contains among other statements the following:

"The parties met ... and together visited the area"

"Doolin Canyon heads on the eastern slopes of the Pacific Range at an elevation of about 2500 feet and drains in a general easterly direction a distance of about 4 miles to the Russian River. The watershed upstream from the protestants is steep, moderately to heavily wooded and has a drainage area of about 1 3/4 square miles. ... it appears that the applicant at the specified point of diversion would have access to runoff from about 1/3 square mile. The soil where use of water was being made appeared to be a gravelly loam with undoubtedly a high degree of porosity. ... mean annual precipitation ... 35.27 inches"

"At the time of the investigation flow in Doolin Canyon at the Ryder point of diversion ... was an estimated 3.0 cubic feet per second. Some 1/2 to 3/4 mile downstream at Protestant Jungers' point of diversion the flow had diminished to about 2.0 cubic feet per second and had disappeared entirely at a point immediately upstream from U. S. Highway 101 bridge. The only water being diverted from the stream at that time was at the Ryder point of diversion. Five sprinklers were observed in operation and ... it is doubtful from the obvious pressure available that they would have totaled less than 50 gallons per minute."

"The Ryder property is undoubtedly riparian to Doolin Canyon Diversion is made from a natural pool in the creek bed about 1/2 mile upstream into a 6" iron pipe and carried a distance of about 2,000 feet thence Water is used for the irrigation of 8 acres of pasture ..."

domestic uses at 2 fully plumbed houses with plans to construct 2 additional houses ... and stockwater and sundry needs around a dairy of from 12 to 16 cows. Mr. Ryder stated that their needs during the irrigation season of approximately 40,000 gallons per day as claimed in the protest was the amount actually used as determined by a meter"

"Protestant Melvina K. Jungers diverts from a 3 foot diameter well situated about 10 feet from the edge of the stream channel. Her diversion system was not in operation and water stood in the well 8 feet below ground level Depth of the well was not determined but as it was equipped with a $1\frac{1}{4}$ inch centrifugal pump the depth at which water could be obtained would be limited to about 25 feet. Obviously the underflow of the creek was the principal source of her supply. Use of water on the Jungers property is irrigation of $1/4$ to $1/3$ acre of lawn and flowers, domestic use for a fully plumbed house, water for a flock of chickens and a limited number of cattle."

"According to Mr. Ryder, the lowest flow he has ever observed at his point of diversion was about one-half of the flow as noted at the time of the investigation. Miss Ryder stated that during 26 years she has been on the ranch flow has diminished to a point where the entire amount could be diverted into the 6-inch pipe line only during the late afternoons of about three weeks during August and September. Several years ago it was noted by Mr. Ryder that many of the trees along the creek were dying and since that time he has required that water flow the entire reach of the stream bed through the property even if irrigation of the pasture had to be curtailed. Over the years he has attempted to obtain all of the land in the watershed so as to safeguard the water supply and he questions the location of the applicant's property. He stated that a survey of his property is in progress and unless the results of the survey prove otherwise he will not concede that the applicant has the necessary right of access to the stream. In addition to the question of availability of water concern was also expressed over possible pollution of stream"

"Apparently there has never been any problem between the Ryders and Jungers insofar as use of water is concerned. Due to the proximity of the irrigated Ryder land to the stream and the rate of return flow from such irrigation surface flow has allegedly existed year-around at the upper end of the Jungers property where the well is located."

Discussion

The flow of the source evidently is large, ordinarily, in comparison with the protestants' needs. The investigator reports having observed a flow of some 3 cubic feet per second at the time of the field investigation; Mr. Ryder of the protestant Company states that the least flow he has ever observed at "his" point of diversion was about half of that amount, or 1.5 cubic feet per second. In contrast with that minimum flow Mr. Ryder states that "his" requirements aggregate 40,000 gallons per day, equivalent to about 0.06 cubic foot per second; Protestant Jungers' requirements (domestic, minor stockwatering, irrigation of perhaps 1/3 acre) can hardly exceed 0.01 cubic foot per second. It is evident therefore that unappropriated water exists usually and in amounts that are much in excess, relatively, of the 15,000 gallons per day (0.0232 cubic foot per second) that the applicant seeks to appropriate and of the 0.07 cubic foot per second or thereabouts that the protestants apparently require.

Mr. Ryder's concern that trees along the source are dying, that the applicant may not have necessary right of access and/or that pollution may occur if the applicant diverts as he proposes, is not sufficiently supported to warrant disapproval of the application. The trees, presumably wild, uncultivated and subject to various hazards are unapt to be affected materially by the proposed appropriation; Mr. Ryder questions rather than denies the applicant's statement that the latter owns the proposed point of diversion; there is no showing that pollution will occur or will be uncontrollable.

Summary and Conclusion

The applicant seeks to appropriate 15,000 gallons per day, year-round, for domestic purposes, from Doolin Canyon, tributary to Russian River, in Mendocino County.

The application is protested by R. W. Ryder Engineering Company, et al. and by one Melvina K. Jungers. The protestants assert riparian rights. The first of the two protests represents that use is made of up to 40,000 gallons per day for domestic purposes, stockwatering and irrigation. Protestant Jungers claims to use up to the capacity of a 3/4-inch pipe for irrigation of lawn, flowers and shrubs. All protestants represent that the proposed appropriation will interfere with the exercise of existing rights.

The parties stipulated to proceedings in lieu of hearing. A field investigation was conducted on May 12, 1954. According to the report of that investigation Doolin Canyon heads at an elevation of about 2,500 feet, flows easterly about 4 miles to Russian River, its watershed is steep and moderately to heavily wooded, rainfall averages around 35 inches, the watershed above the applicant's proposed point of diversion is about 1/3 square mile in extent, that above the protestants' about 1 3/4 square miles, the soil upon which water is used is very porous, flow at the time of the investigation was 3.0 cubic feet per second at the Ryder intake, 2.0 cubic feet per second at the Jungers intake, zero at the highway bridge roughly a mile below Jungers. According to the same report, at the time of the investigation, water was being diverted

into the Ryder conduit, a pipeline 6 inches in diameter, 2,000 feet long, the water was being used in irrigating 8 acres of pasture, water from the same system is used also for domestic purposes at 2 fully plumbed houses, for sundry needs around a dairy, for watering of up to 16 cows; Mr. Ryder (speaking for the protestant Company) stated that maximum use by his group is at the rate of about 40,000 gallons per day (determined by meter); Mr. Ryder also stated that the least flow he had ever observed was about half of the 3.0 cubic feet per second observed by the investigator, that several years ago he observed that trees along the creek were dying, that he therefore now requires that the water flow clear through the property even if irrigation of the pasture has to be curtailed, that he questions the applicant's right of access to the stream, that the proposed appropriation is apt to cause pollution; Miss Ryder (interviewed at Ryder ranch) stated that never during the 26 years of her observation had flow fallen below the capacity of the pipe line except during the late afternoons of about 3 weeks during August and September; Protestant Jungers diverts from a 3-foot well offset 10 feet from the stream, the well is equipped with a $1\frac{1}{4}$ inch centrifugal pump, the pump was idle, the water stood 8 feet below ground surface, the well was supplied by underflow of the creek, use of water on the Jungers place is limited to domestic use, to limited stockwatering and to irrigation of $\frac{1}{3}$ of an acre; flow of the source was said to have existed year-round at the Jungers well, return flow from the Ryder irrigated land possibly contributing thereto.

Mr. Ryder's assertion that trees along the source have died, and his belief that the applicant may not have necessary right of access and/or that pollution may result if water is diverted as proposed, do not disprove the existence, ordinarily, of unappropriated water.

The circumstances summarized point to the conclusion that unappropriated water ordinarily exists in the source from which the applicant seeks to appropriate and that such water may be taken and used in the manner proposed without infringement upon the rights of lower users. It is the opinion of this office therefore that Application 15186 should be approved and permit issued, subject to the usual terms and conditions and subject also, in view of Mr. Ryder's doubt as to the validity of the applicant's claimed right of access, to a provision to the effect that issuance of the permit does not confer any right of access to the point of diversion.

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ORDER

Application 15186 having been filed with the Division of Water Resources as above stated, protests having been filed, stipulations having been submitted, a field investigation having been conducted and the State Engineer now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 15186 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 subject also to the following special term and condition, to wit:

The issuance of this permit shall in no way be construed as conferring upon permittee a right of access to the point of diversion.

WITNESS my hand and the seal of the Department of Public Works of the State of California this 1st day of June, 1955.



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