

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 12047 of the Sherman P. Stow Company to
Appropriate Water from San Pedro Creek Tributary to the Pacific Ocean in Santa
Barbara County for Irrigation Purposes.

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Decision A. 12047 D. 606

Decided May 2nd, 1949

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In attendance at investigation conducted by the Division of Water Resources
at the site of the proposed appropriation on July 29, 1948.

Francis Price, Jr., Attorney)) Representing the Applicant.
Garrett Van Horne)	
A. M. Bottini)	
T. M. Mullin, Attorney	Representing the Protestants Cavalletto
Louis D. Cavalletto	Protestant
Henry Ravenscroft	Protestant
J. J. Heacock	Associate Hydraulic Engineer Division of Water Resources Department of Public Works Representing the State Engineer.

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O P I N I O N

General Description of Project

The project contemplates the diversion of 200 acre-feet from San Pedro
Creek, tributary to Pacific Ocean in Santa Barbara County. Two points of diversion
are mentioned, one lying within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 31, T 5 N, R 28 W and the
other within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 5, T 4 N, R 28 W, S.B.B. & M. 100 acre-feet per
annum are to be diverted at each of these points, water being collected between

November 1 and April 30 of each season. In one instance diversion is to be by pumping from a concrete sump by means of a plant of 600 gallons per minute capacity; in the other a concrete dam 2 feet high by 20 feet long will divert by gravity. The conduit proposed is a 6 inch steel pipe line 6000 feet long, of an estimated capacity of 3 cubic feet per second. The water applied for is to be used for irrigation on 237.5 acres located within Section 7, T 4 N, R 28 W, S.B.B. & M. Of this tract 154 acres are to be in general crops and 83.5 acres in orchard. The irrigation season is said to extend from April 1 to November 30. The project includes the existing La Patera Reservoir, of which the surface area is 34.9 acres and the reported capacity 478.4 acre-feet. This reservoir is located immediately at the place of use; the impounding dam is an earth structure 30 feet high and 1550 feet long.

PROTEST

Henry Ravenscroft asserts riparian ownership, argues that the proposed diversion will prevent the free and ordinary flow as well as the flood flow of San Pedro Creek from reaching his property and will therefore interfere with the replenishment of the underground water supply upon which he is dependent, for both domestic and irrigation purposes. He states that he obtains water from a well which came into service prior to December 19, 1914, that he irrigates 10 acres, that experience indicates that diversions from San Pedro Creek, such as that proposed, seriously affect production from wells on his property, such wells originally having had artesian flow.

In answer to the Ravenscroft protest the applicant denies that the Ravenscroft property is riparian to San Pedro Creek and on the contrary alleges that it, the applicant, owns the bed and both banks of that stream at and along its closest point of approach to the protestant's lands. The applicant contends that

the proposed diversion will not adversely affect the protestants well which is several hundred yards removed from San Pedro Creek and cannot be affected by flood waters therein. The applicant contends further that the appropriation described in Application 12047 is supported by its own riparian right and by a prescriptive right established by continuous use since 1910.

Louis D. Cavalletto and Pauline C. Cavaletto assert that they are lower riparian owners and that the proposed appropriation will in certain years leave no water available to them. They do not assert present use of San Pedro Creek water but they anticipate that they will have to divert and store some of the winter flow because of the steadily dropping water table. They state that the water table at their current well site has dropped from less than 6 feet thirty years ago to 80 feet at the present time. They argue that the underground supply which feeds their well is fed in turn by percolation from San Pedro Creek.

In answer to the Cavalletto protest the applicant denies that the waters filed upon feed the protestants' wells and denies that the use described by the protestants is a riparian use. The applicant contends that its proposed appropriation is supported by its own riparian right and that by long continued use it has acquired a prescriptive right.

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 July 29, 1948 by an engineer of the Division. The applicant and the protestants were present, or represented, during the investigation.

Records Relied Upon

Application 12047 and all data and information on file therewith.

Discussion

According to the report of investigation the annual discharge of San Pedro Creek probably averages 500 acre-feet; San Pedro Creek in its course from source to mouth traverses successively an area of consolidated rocks, a recharge area and an area of confined ground water; the protestants' lands lie within the area of confined ground water; stream-flow reaching the area of confined water is not in hydraulic continuity with the main ground water body and practically in its entirety wastes into the ocean; and in view of these and like considerations the recharge to the water table from San Pedro Creek is very small. The data indicate also that irrigation on the protestants' lands is accomplished not by diversion of surface waters but by pumping from wells.

Inasmuch as Application 12047 seeks appropriation only during the months of November to April inclusive, diversions in accordance with the terms of that application cannot interfere with such small recharge to the water table as may occur during other months. As to stream flow occurring from November 1 to April 30, waters traversing the so-called recharge area contribute to some extent to the ground water supply that feeds the protestants' wells but that portion of such waters which enters the area of confined water and wastes into the ocean is evidently surplus and therefore subject to appropriation.

It is concluded that diversion as proposed under Application 12047 may be permitted without injury to protestants during such times as surpluses of surface flow enter the area of confined water.

In order to reasonably protect the protestants' rights as overlying owners to obtain water from wells, it is considered advisable that diversions under Application 12047 be limited to times at which the natural flow of San Pedro Creek reaches the

lower boundary of the so-called recharge area. A landmark situated almost exactly upon that boundary is the road known in the locality as "Stow Canon Road". It is appropriate therefore that a permit issued in connection with Application 12047 include a clause worded as follows:

"Diversion under this permit may be made only at such times as a continuous flow in the channel of San Pedro Creek is reaching through to the Stow Canon Road."

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ORDER

Application 12047 for a permit to appropriate water having been filed, a field investigation having been made, a stipulated hearing having been held in accordance with Article 13, Section 733(b) of the Administrative Code and the State Engineer now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 12047 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 to the following special clause, to-wit:

"Divisions under this permit may be made only at such times as a continuous flow in the channel of San Pedro Creek is reaching through to the Stow Canon Road."

WITNESS my hand and the seal of the Department of Public Works of the State of California this 2nd day of May, 1949.




Edward Hyatt, State Engineer