

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 12213 of H. S. Merriam to Appropriate Water from an Unnamed Stream Tributary to San Marcos Creek in San Diego County for Irrigation Purposes.

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Decision A. 12213, D. 611

Decided August 10, 1949

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IN ATTENDANCE AT INVESTIGATION CONDUCTED BY THE DIVISION OF WATER RESOURCES  
AT THE SITE OF THE PROPOSED APPROPRIATION ON AUGUST 12, 1948:

H. S. Merriam  
Graham Nash  
J. J. Heacock

Applicant  
Protestant  
Associate Hydraulic Engineer  
Division of Water Resources  
Department of Public Works  
for the State Engineer

Note: John Wells, ranch manager and son-in-law of Protestant Clemson, while not present at the site of the proposed appropriation, was interviewed in late afternoon of the day of the investigation.

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OPINION

General Description of the Project

The application was filed with the Division of Water Resources by H. S. Merriam on December 24, 1947. It contemplates a diversion of 45 acre-feet per annum from an unnamed stream, tributary to San Marcos Creek, in San Diego County. The water applied for is to be collected between October 1 and June 1 of each season, stored in a reservoir located within the SW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 23, T 11 S, R 3 W, S.B.B. & M. and used as a supplemental source of supply in the irrigation of 165 acres lying within Sections 23, 25 and 26. The storage reservoir is described as an earth structure 24 feet in height and 560 feet in top length.

The freeboard is to be 5 feet. The reservoir is to have a surface area of 4.4 acres and a capacity of 45 acre-feet. Water is to be conducted to the place of use by a welded steel pipe line 6600 feet long and 5 inches in diameter. The place of use is said to include 75 acres of orchard and 90 acres of general crops. The irrigation season is said to extend from about May 1 to about October 15. The applicant states that he owns the land at the point of diversion and also the land whereon the water is to be used.

#### PROTESTS

George W. Clemson protests that the proposed appropriation will deprive him of water to which he is entitled, from the same source. He claims a right based upon a prior appropriation under Application 10711 and upon riparian ownership. He asserts that the entire flow of San Marcos Creek and tributaries reaching his point of diversion during 1947 was 47 acre-feet and that during 1948 it was 50 acre-feet, which amounts he impounded for use under his permit. He describes his point of diversion as being located within the  $NE\frac{1}{4}$   $NE\frac{1}{4}$  of Section 29, T 12 S, R 3 W, S.B.B. & M. and states that his protest may be disregarded and dismissed if the applicant's diversion in any season is not permitted until 615 acre-feet of water shall first have been impounded behind his dam.

Graham Nash protests that San Marcos Creek supplies insufficient water to fill the existing reservoir on the property belonging to Protestant Clemson, to fill the reservoir that he (Nash) has been authorized to operate on his own property under Application 11703 and also to provide the 45 acre-feet per annum applied for under Application 12213. He asserts that his statement is based upon a study of probable runoffs during a 30 year period ending in 1925, the study having been made for a former owner by the engineering office of J. B. Lippincott of Los Angeles. According to that study, he claims, during 11 of the 30 seasons investigated little if any runoff was available for storage and during

9 more of the same 30 seasons runoff was insufficient to satisfy the Clemson rights and the right initiated under Application 11703. He concludes that a surplus occurs, on average, in but one year out of three. He states that his protest may be disregarded and dismissed if the applicant is allowed to divert only after the requirements under Application 11703 have been met.

The applicant answers the two protests by a statement to the effect that information gathered from three different engineering sources points to the probability of an average water crop of 1431 acre-feet annually from the watershed in question, an amount sufficient to satisfy existing rights and in addition to supply his proposed appropriation.

#### 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 August 12, 1948 by an engineer of the Division. The applicant and one of the protestants was present during the investigation; a representative of the other protestant was interviewed in late afternoon of the same date.

#### Records Relied Upon

Application 12213 and all data and information on file therewith.

#### Discussion

Of the applications referred to in the protests Application 10711, for irrigation and domestic use, was filed by George W. Clemson on September 13, 1943 and Application 11703, for irrigation only, was filed by Graham Nash on January 22, 1947. Application 10711 contemplated a diversion from San Marcos Creek at a point within the NE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 29, T 12 S, R 3 W, S.B.B. & M. for the irrigation of 582.84 acres. It was approved and Permit 6305 issued on October 3, 1944 for not to exceed 615 acre-feet per annum, diversion being unrestricted

as to time. Application 11703 initiated an appropriation for 409.88 acre-feet per annum for the irrigation of 282.8 acres, diversion being proposed from San Marcos Creek at three points within Sections 29 and 30 of the same township, without limitation as to the time of diversion. The latter application is in abeyance, pending the filing of plans and specifications relating to the proposed dams. Both applications involve storage exclusively; diversion for direct application to beneficial use without storage is not contemplated under either filing.

The drainage area tributary to Applicant Merriam's dam site lies at the upper extremity of a branch of San Marcos Creek and is some 1.5 square miles in extent. The distance along the stream channel from the Merriam dam site to Protestant Clamson's dam is approximately 9 miles. The drainage area tributary to the Clemson dam is of the order of 30 square miles. Protestant Nash's project lies immediately below that of Protestant Clemson and the watershed tributary to the Nash project includes and is but slightly greater than that tributary to the Clemson dam.

A search has failed to reveal any direct measurements of the flow of San Marcos Creek and estimates of probable flow necessarily are based on comparison with other similarly situated watersheds the yields from which are known. Estimates based on such comparisons are admittedly approximations and they vary rather widely among themselves. Thus one estimate quoted in the report of field investigation is to the effect that gross discharges of San Marcos Creek at the Clemson dam site from the season of 1883-84 through the season of 1930-31 have averaged 2407 acre-feet per season and have varied from as much as 21,210 acre-feet in one season to as little as 20 acre-feet in another. Three other estimates quoted in the report of investigation place the probable average annual yield at 960 acre-feet, 2040 acre-feet and 1294 acre-feet respectively. 1431 acre-feet

per annum is the average of the three estimates last quoted and has been suggested as a figure that may be supposed reasonably near the truth.

A gross runoff of approximately 1070 acre-feet at the Clemson dam should approximately satisfy the rights claimed by Protestants Clemson and Nash as well as the right sought by Applicant Merriam which are in amount, respectively, 615 acre-feet, 410 acre-feet and 45 acre-feet, per annum. Since this figure is substantially less than the 1431 acre-feet suggested in the preceding paragraph as a reasonable approximation of the average annual yield of San Marcos Creek it is concluded that a surplus exists in the stream in question and that the application should therefore be approved. For the same reason the protests by George W. Clemson and Graham Nash, respectively, against Application 12213 are adjudged insufficient and are dismissed without prejudice.

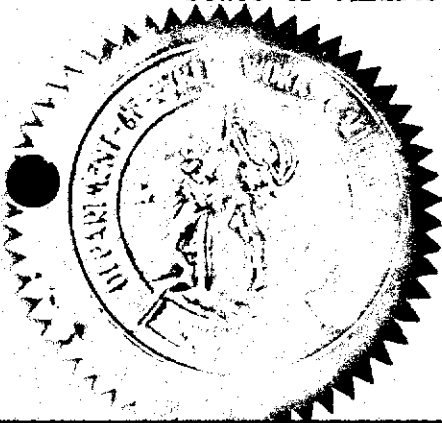
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ORDER

Application 12213 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 12213 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 10th day of August, 1949.



  
Edward Hyatt, State Engineer