

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 11311 and 11430 by Ventura County Flood Control District to Appropriate Water from Matilija Creek Tributary to Ventura River in Ventura County for Irrigation, Domestic and Municipal Purposes

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Decision A. 11311, 11430 D. 630

Decided October 31, 1949.

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APPEARANCES AT HEARING HELD AT VENTURA, JULY 20, 1949:

For the Applicant

Ventura County Flood )  
Control District )

(M. Arthur Waite,  
(District Attorney and  
(Donald D. Roff,  
(Assistant District Attorney

For the Protestant

Rancho Ojai Mutual )  
Water Company )

William T. Selby

For an Interested Party

The City of Ventura

(Frank E. Orr,  
(Assistant City Attorney

EXAMINER - GORDON ZANDER, Principal Hydraulic Engineer, Division of Water Resources, Department of Public Works, for EDWARD HYATT, State Engineer.

Also in attendance: J. J. Heacock, Associate Hydraulic Engineer,  
Division of Water Resources, Department of Public Works.

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General Description of the Proposed Developments

Application 11311 proposes a diversion of 8000 acre feet per annum to be collected at any time of year for irrigation and domestic purposes. Diversion is to be from Matilija Creek in Ventura County at Matilija Dam which is described as being located within the NW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 29, T 5 N, R 23 W, S.B.B.&M. The dam is to be a concrete structure 150 feet high and 620 feet long. The resultant reservoir is to have a surface area of 124 acres and a capacity of 7000 acre feet. From the reservoir water is to be conducted through a steel (or equal) pipe line 95,900 feet long of a proposed capacity of 40 cubic feet per second. The place of use is described as lying within Zone One of Ventura County Flood Control District. Within a designated gross area of 27,000 acres, 11,300 acres net are to be irrigated. Irrigation is contemplated throughout the year and the land to be irrigated is said to have another water right or source of water supply, viz., underground waters of valley basins.

Application 11430 is a proposal to appropriate an additional 4,300 acre feet per annum to be impounded in the same reservoir and conveyed through the same pipeline as in the project under Application 11311 for use for municipal purposes at the cities of San Buenaventura and Ojai.

### Protests

Rancho Ojai Mutual Water Company protested the applications alleging that the project described thereunder will prevent that protestant from receiving a dependable and adequate supply. It asserts that its supply which is diverted at a point within the N $\frac{1}{2}$  NE $\frac{1}{4}$  of Section 33, T 5 N, R 23 W, S.B.B.&M. depends both upon the surface flow of Matilija Creek and upon the waters that percolate through the gravels of that streambed and that the proposed damming of the stream will interfere with both surface and sub-surface supply. It claims both riparian and appropriative rights and asserts that it and its predecessors have used the waters claimed for more than 50 years. It claims that its rights aggregate 231 miner's inches, that water is used continuously, that water is supplied to approximately 400 users for domestic purposes and for irrigation of intensively cultivated land. It states that its protest may be disregarded and dismissed if the applicant makes adequate provision for supplying the protestant's needs, not only as to surface flow but also as to saturation of the area of percolation in the stream bed.

The applicant in answering the protest states that it recognizes the protestant's right to use 231 miner's inches when that amount is available, which right however does not apply to stored water; that it will pass through the reservoir as much water as would pass the site were no dam constructed; that it will not release stored water to provide a saturation of the area of percolating water; that Matilija Creek and North Fork, which streams unite a short distance below the dam site,

together provide the supply that passes the protestant's intake; that the grade of Matilija Creek between the dam site and the stream junction above mentioned is too steep for any considerable storage in the gravels of that reach; and that present diversion by the protestant with normal conditions prevailing is not over 60 miner's inches.

#### Hearing Held in Accordance with the Water Code

Applications 11311 and 11430 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 Article 13, Section 733(a) of the California Administrative Code on Wednesday, July 20, 1949 at 10:00 o'clock A.M. in the Board of Supervisors' Room, County Court House, Ventura, California. Of the hearing the applicant and the protestant were duly notified.

#### General Discussion

At the hearing it was argued on behalf of the applicant that Matilija Creek yields a supply which after due allowance for prior claimants downstream is still sufficient for the purpose in view and warrants exploitation in the manner proposed in the application. It was argued that over an 80 year period, according to the records, the proposed reservoir would have afforded a net supply of 1800 acre feet each year, including years and series of years of subnormal runoff. Amplifying the argument an engineering report was filed as an exhibit. No exception was taken to the argument or to the exhibit by the protestant or by other interested parties. It was explained that the 1800 acre feet per annum mentioned is the amount which the applicant

estimates may be depended upon each and every year and asserted that in a normal year or in a wet year more than 1800 acre feet will be available and will be utilized up to the extent set forth in the applications.

The position of the protestant and of other interested parties who expressed views at the hearing was to the effect that they favor conservation of flood flow that would otherwise escape into the ocean but that they object to the impounding of waters to which they claim established rights, i.e. to stream flow up to the limit of their ability to use such flow beneficially or of the ability of certain lower reaches of the river bed to absorb that flow and so render it later recoverable by pumping.

Stream flow records as published in U. S. Geological Survey Water Supply Papers bear out the applicant's contention that surpluses sometimes exist. According to those records Matilija Creek at or near the applicant's proposed dam site has discharged an average of 37.9 cubic per second over a 19 year period. Ventura River (fed in part by Matilija Creek) at the lowest gage thereon which is some 5 miles upstream from Ventura is shown to have had an average discharge of 77.6 cubic feet per second over the same period. These figures are so far in excess of the amount to which the protestant claims to be entitled as to support a conclusion that times occur in years of average or above-average discharge when amounts approaching those specified in the applications may be accumulated in storage for later use in the manner proposed without injury to parties downstream.

In view of the above circumstances the protest by Rancho Ojai Mutual Water Company is deemed insufficient and is therefore dismissed without prejudice.

The appearance on behalf of the City of Ventura was not inimical to the proposed development to the extent of representing a protest. It was of the nature rather of an assertion that that City holds rights to and is interested in waters from the source in question. Informal remarks in corresponding vein (pages 29 and 35 of transcript) were offered at the hearing by other interested parties. Since it must be assumed that vested rights of lower users must be respected by the initiator of a junior right, the alleged existence of such lower rights is not deemed a bar to the approval of applications to accumulate occasional surpluses in storage when such surpluses at times apparently exist.

#### Summary and Conclusions

Unappropriated water at times exists in the source from which appropriation is sought under Applications 11311 and 11430. Such water may be taken and used as proposed in those applications without injury to the protestant or to other users. The applications should be approved, subject to the usual terms and conditions.

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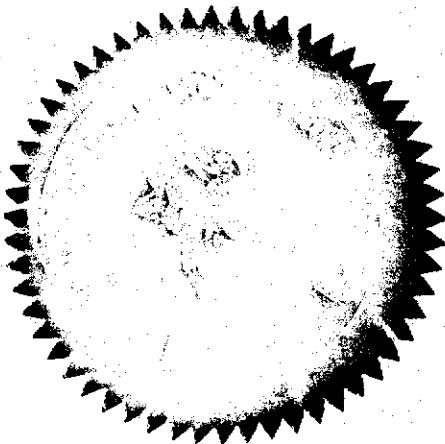
#### ORDER

Applications 11311 and 11430 having been filed with the Division of Water Resources as above stated, a protest 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 11311 and 11430 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 31st day of October, 1949.



  
Edward Hyatt, State Engineer.