

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 12944, by Joseph and Adelle Zasso to Appropriate Water from Dutch Ravine, Tributary to Auburn Ravine, in Placer County for Irrigation and Stockwatering Purposes.

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Decision A. 12944 D. 660

Decided April 17, 1950

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IN ATTENDANCE AT INVESTIGATION CONDUCTED BY THE DIVISION OF WATER RESOURCES AT THE SITE OF THE PROPOSED APPROPRIATION ON DECEMBER 21, 1949:

Joseph Zasso	Applicant
Carl Farina	For the applicants Zasso
Percy Bosanko)	(For Nevada Irrigation
M. H. Shinn)	(District, Protestant
Robert P. Rich	Protestant
A. S. Wheeler	Senior Hydraulic Engineer, Division of Water Resources, Department of Public Works, Representing the State Engineer
Franz M. Kuchta	Assistant Hydraulic Engineer, Division of Water Resources, Department of Public Works

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OPINION

General Description of the Project

The application as advertised contemplated an appropriation of 1.20 cubic foot per second, year round, from Dutch Ravine, tributary to Auburn Ravine, in Placer County, for irrigation and stockwatering purposes.

Diversion is to be effected at a point within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 23, T 12 N, R 7 E, M.D.B.&M., by means of a pump, 500 gallons per minute in capacity, its intake placed directly in the stream. The conduit is to be a pipe line 6 inches in diameter, 1700 feet long, rising a total of 200 feet. The water is to be used in irrigating a 25 acre orchard and in watering 12 cows, the place of use being situated in the NW $\frac{1}{4}$ of Section 23, T 12 N, R 7 E, M.D.B.&M. The applicant asserts also a riparian right.

Protests

The Nevada Irrigation District protested the application, contending that the proposed appropriation will diminish the natural flow available at that District's point of diversion under Application 6529, which is downstream with respect to the applicants' point of diversion. The protestant's intake is described as lying within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 13, T 12 N, R 6 E, M.D.B.&M. No conditions are mentioned under which the protest may be disregarded.

Robert P. Rich protested the application, representing that there is no unappropriated water in the source in question during the months of April to September inclusive, beyond that required for fish and for livestock downstream, and that the proposed appropriation would leave his property (the protestant's) without a water supply for orchard and pasture irrigation and for stockwatering. Protestant Rich asserts that there is no other way of irrigating his ranch which lies within the E $\frac{1}{2}$ of Section 15, T 12 N, R 7 E, M.D.B.&M., and that he irrigates approximately 80 acres from April to September of each year by diversion from Dutch Ravine, his ditch heading at a point within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 23, T 12 N, R 7 E, M.D.B.&M.

The applicant answers the protests by stating that the supply in Dutch Ravine is sufficient for him and for Protestant Rich except occasionally for perhaps two days at a time; that accretions reach Dutch Ravine below his point of diversion but above Protestant Rich's, these being mostly wastage from a Pacific Gas and Electric Company ditch and return flow from his own irrigated land; that much of the water flowing in Dutch Ravine is runoff and seepage from upstream irrigation, which water, he argues is free water, to which in his opinion he has as much right as has the protestant Nevada Irrigation District.

Field Investigation

The parties 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 December 21, 1949 by an engineer of the Division. The applicants and the protestants were present or represented at the investigation.

Records Relied Upon

Applications 6529 and 12944 and all data and information on file therewith.

Discussion

Under Application 6529 (Permit 5805) Nevada Irrigation District initiated an appropriation of 10 cubic feet per second to be diverted from Auburn Ravine at a point within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 13, T 12 N, R 6 E, M.D.B.&M., the water to be used for the irrigation of some 2240 acres within Sections 13, 14, 22 and 23 of the same T 12 N, R 6 E. Some 4 miles upstream from the Nevada Irrigation District intake Dutch Ravine enters Auburn Ravine and some 2 miles up Dutch Ravine is the

diversion proposed under Application 12944. The protestant District's diversion thus lies downstream from the diversion proposed by the applicant and, theoretically, the District could be injured by an upstream diversion such as the applicant proposes, should supply become deficient at the District's intake. On the other hand except as the supply available at the District's intake falls below 10 cubic feet per second, Application 6529 cannot be considered a bar to the exercise of a junior appropriation.

At the time of the investigation (December 21, 1949) the flow of Dutch Ravine was estimated to be of the order of 2 cubic feet per second. That flow appeared to be coming from springs and seeps on the applicant's land and on lands farther upstream but the parties present agreed that the flow in summer time is about the same in amount, being derived at that season from runoff from irrigated lands served by Pacific Gas and Electric Company and from wastage spilled from that company's ditch.

At the investigation it developed that the applicants intend to irrigate 25 acres only and that a downward revision of the application was therefore in order. Applicant Zasso forthwith signed a request on behalf of himself and co-applicant, that the amount sought and the area to be irrigated as set forth in Application 12944 be changed to 0.31 cubic foot per second and 25 acres respectively. The application was amended in due course in accordance with Applicant Zasso's request.

During the investigation also Protestant Rich whose diversion heads on the applicants' land stated that he and the applicants had rotated their diversions in the past and could continue to do so and thus all have sufficient water. In view of the reduction in the amount applied

for and the fact that the application upon approval would still be subject to vested rights, Protestant Rich withdrew his protest.

Finally, at the investigation, the representative of the protestant Nevada Irrigation District stated that in view of the reduction of the amount applied for, the fact that there was some natural flow at all times which the applicants could divert as riparian owners and the fact that the application if approved would still be subject to vested rights, he would recommend the withdrawal of the Nevada Irrigation District protest. However by a letter dated the following day the manager of the protestant District indicated that the District desired its protest to stand.

Information as to flow conditions on Auburn Ravine is somewhat meager. Auburn Ravine drains a considerable area extending from the vicinity of Auburn westerly, nearly to Sacramento River. Above the protestant District's intake the tributary watershed scales some 30.4 square miles, of which some 2.4 square miles lie above the applicants' intake. Elevations are roughly 250 feet at the protestant's intake 520 feet at the applicants' intake and 1650 feet on the highest portions of the watershed. Not much is of record as to runoff but that is not of serious consequence in the matter at issue since due to the low elevations runoff occurs early and during most of the irrigation months the main reliance of water users is return flow of irrigation water applied on upstream lands, such water largely being imported from without the watershed by Pacific Gas and Electric Company.

Some 28 applications at one time or another have been filed on waters of Auburn Ravine or its tributaries. Many of these filings have been cancelled or revoked. Applications still active and senior to

Application 12944, excluding that of the protestant against that application and applications to appropriate at points upstream therefrom or from tributaries to Auburn Ravine are as follows:

Application 2357, Permit 1093, License 459, now held by James Pierratt; 1.19 cubic feet per second from April 1 to July 1; some 17 miles downstream from protestant (Application 6529).

Application 7457, Permit 4192, License 2046, now held by Annie G. Hardin; 2.5 cubic feet per second from April 1 to April 30; heads some 10 miles below protestant's intake.

It is to be noted that the holders of Applications 2357 and 7457 did not choose to protest Application 12944 although notices of the pendency of that application were duly mailed. According to Report of Licensee under Application 2357 the holder thereof reported irrigation of 90 acres of rice from April 1 to September 30 of each of the years 1945, 1946 and 1947. In the case of Application 7457 the Report of Licensee for the triennium ending in 1947 states "Water used during month of April and purchased from N.I.D. the balance of season. About 250 acres in rice planted."

Under the protestant's Application 6529 which was filed January 9, 1930, Permit 5805 was issued on June 17, 1941 and the time within which to complete beneficial use thereunder has been extended to December 1, 1952. Progress reports from this permittee show use having been made from April 1 to December 1, for agricultural and domestic purposes for several years up to and including 1948, but the acreage irrigated while asked for has not been stated. The extension to December 1, 1952 was a 5 year extension. According to office letter of April 15, 1948

a 10 year extension had been requested but in accordance with office policy a 5 year extension only was granted and the permittee was informed that upon the expiration thereof consideration would be given to a further extension, upon request therefor, for good cause stated.

From the fact that users below Nevada Irrigation District did not protest Application 12944 and the fact that Nevada Irrigation District has made somewhat slow progress in applying to beneficial use the 10 cubic feet per second applied for under Application 6529 and which it evidently believes to exist, it is concluded that there are surpluses in Auburn Ravine currently, and that such surpluses, at least including such portion of 10 cubic feet per second as Nevada Irrigation District has not yet applied to beneficial use, and may not so apply for a matter of years, are subject to appropriation. When as and if the incomplete right of the Nevada Irrigation District under Application 6529 becomes perfected, and at such times as the flow of Auburn Ravine is inadequate to supply that right and all other rights prior to Application 12944, then the holder of rights under the junior Application 12944 would be required as provided by law to reduce diversions accordingly. The denial of Application 12944 upon the grounds that available water may at some future time be required to satisfy a dormant right of a lower appropriator would be at variance with the spirit of Section 100 of the State Water Code.

As earlier stated hydrographic data on Auburn Ravine and tributaries are meager. In a report of investigation in connection with Application 524 (since cancelled) Engineer Power found in Dutch Ravine (on May 4, 1917) a flow of 1.2 cubic foot per second which during dry periods

was said by local residents to drop to 2 miner's inches. In a report of investigation (on September 28, 1923) in connection with Application 2357 Engineer Stafford states that Auburn Ravine is ordinarily dry in summer except for return flow entering at and above Lincoln; that this return flow does not reach the permittee (under Application 2357) who therefore can divert only in spring and early summer. In the findings in connection with Application 6529 (D 474 dated March 10, 1941) it was written:

"No data is available relative to the natural runoff of Auburn Ravine but it is a matter of common knowledge that at certain times there is water available in excess of the amounts claimed under prior vested rights which is available for appropriation under Application 6529. While we are of the opinion that Auburn Ravine is not a dependable source of supply at the present time the fact remains that as the irrigated area in the watershed increases there will be a corresponding increase of return water available for diversion and use under Application 6529. It is the opinion of the Division that Application 6529 should be approved."

It would appear that the conclusion reached in the case of Application 6529 is applicable in the case of Application 12944 which application, in the reduced amount of 0.31 cubic foot per second, should therefore be approved and permit issued, subject to the usual terms and conditions.

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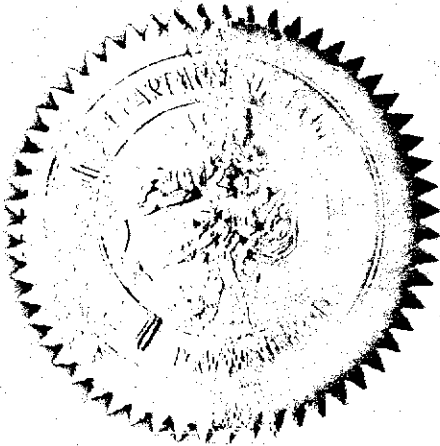
ORDER

Application 12944 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 12944 be approved and that a permit in the reduced amount of 0.31 cubic foot per second 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 17th day of April, 1950.



A. D. Edmonston

A. D. Edmonston
State Engineer.