

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 12381 by Hazel M. Simpson to Appropriate Water from an Unnamed Stream Tributary via Moore Creek to Soquel Creek in Santa Cruz County for Domestic and Irrigation Purposes.

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Decision A. 12381 D. 664

Decided April 24, 1950

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IN ATTENDANCE AT INVESTIGATION CONDUCTED BY THE DIVISION OF WATER RESOURCES AT THE SITE OF THE PROPOSED APPROPRIATION ON JULY 28, 1949:

Mr. and Mrs. Jack Hughes)
) Applicant's representatives
Byron Hester)

Mr. and Mrs. J. B. Coykendall Protestants

A. S. Wheeler 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

The application proposes a diversion of 0.12 cubic foot per second (not however to exceed 35 acre feet per season) from an unnamed stream tributary via Moore Creek to Soquel Creek, in Santa Cruz County.

The proposed point of diversion is located within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 27, T 10 S, R 1 W, M.D.B.&M. and the period of diversion is to extend from March to November, both inclusive. The water is to be used for domestic and irrigation purposes on a 25 acre tract lying partly within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ and partly within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of the same Section 27. The domestic supply is wanted for household use, stockwatering and garden irrigation. The area to be irrigated includes 15 acres of berries and 10 acres of pasture. Diversion is to be effected by means of a pump, 90 gallons per minute in capacity. The projected works include a regulatory reservoir capable of holding 0.2 acre foot.

Protest

J. B. Coykendall protests that the diversion proposed by the applicant will dry up the stream filed upon, which stream is also his (Coykendall's) sole source of supply for domestic purposes and irrigation. Mr. Coykendall states that he and his predecessors have used water from that stream since 1888, first for domestic use and for power generation at a sawmill and later for domestic purposes and irrigation. He states that his point of diversion is located within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 27, T 10 S, R 1 W, M.D.B.&M. He states further that his protest may be disregarded and dismissed if the applicant will allow enough water to pass her intake to operate his hydraulic ram, or if she will divert her supply from Moore Creek instead of from the source described in the application.

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 July 28, 1949 by an engineer of the Division. The applicant and the

protestant were present or represented at the investigation.

Records Relied Upon

Application 12381 and all data and information on file there-
with.

Discussion

The investigating engineer on July 28, 1949 estimated the flow of the source to be 0.15 cubic foot per second. According to his report of investigation Mr. Hester (formerly a tenant of the applicant) and Protestant Coykendall agree that the flow of the same stream in August recedes to approximately 0.10 cubic foot per second. According to the same report the protestant's present requirements amount to about 10,000 gallons per day (0.0155 cubic foot per second) and his ultimate requirements 35,000 gallons per day (0.0542 cubic foot per second). It thus appears that during extreme low water conditions (as in August) there is a surplus beyond the protestant's needs, though not enough to also supply fully the appropriation proposed under Application 12381 and that in July there is just about enough for both of the parties; and it may be inferred that in earlier months surpluses are somewhat greater.

Mr. Hughes who is in process of purchasing the applicant's property stated, according to the report of investigation, that he recognizes that the protestant has prior rights and that he will respect those rights but that he objects to letting sufficient water go by to operate the protestant's ram. The protestant in turn is said to have stated that he understands that he cannot demand water to operate the ram but that he will continue to use it when the water supply permits and will install a larger pump to use at other times. According to the report the parties then agreed among themselves that it will be possible for them to work

out a rotation plan by the employment of which the two properties can be developed as desired.

It developed at the investigation that irrigation on both properties is by the spray method and that the same method, economical as to the use of water, is to be employed on other lands yet to be brought under irrigation; and that most of the lands to be irrigated on the applicant's place are to be in berries which require less water after July 15, a circumstance rendering water shortage after that date less serious.

Mr. Coykendall besides protesting Application 12831 is also the initiator of Application 12886, currently pending before this office, to divert 0.15 cubic foot per second for domestic and irrigation purposes from the same source and at about the place where his present diversion heads. According to his protest he considers his present supply threatened by the diversion proposed under Application 12381. Application 12886 was duly advertised and no protests were filed against it. If as Mr. Coykendall implies by the filing of Application 12886 surpluses are available in the amount of 0.15 cubic foot per second as named in that application he cannot be injured by the appropriation initiated by the filing of Application 12381, the senior application of the two, and his protest is an insufficient bar to the approval of Mrs. Simpson's application. Should Application 12381 be approved Mr. Coykendall's existing rights will be legally protected by the normal permit wording making any permit issued in approval of an application to appropriate water subject to vested rights.

Another indication that surpluses exist is the installation by

the protestant of a hydraulic ram (referred to in the report of investigation), his operation of it in the past and his expectation of operating it in the future on the supposition that surpluses will still exist. According to the report the ram operates most of the time, a 1 inch, motor driven pump having been installed also, as a standby.

In view of the above outlined circumstances it is concluded that surpluses at times exist in the source from which appropriation is proposed under Application 12381, that such surpluses are scanty and intermittent during the summer months but that when and as they occur they may be taken and used in the manner proposed in that application with benefit to the applicant and without injury to the protestant or other downstream user. The application should therefore be approved and permit issued, subject to the usual terms and conditions.


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ORDER

Application 12381 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 733(b) of the Administrative Code and the State Engineer now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 12381 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 24th day of April, 1950.


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