

STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC WORKS
BEFORE THE STATE ENGINEER AND
CHIEF OF THE DIVISION OF WATER RESOURCES

oOo

In the Matter of Application 15418 by Hugh F. and Leona Hall to Appropriate Water from West Tule Creek, Tributary via Main Tule Creek and Hayfork River to South Fork Trinity River, in Trinity County, for Irrigation Purposes.

oOo

Decision A 15418 D 850

Decided March 1, 1956

oOo

In Attendance at Investigation Conducted by the Division of Water Resources on August 23, 1955:

Hugh F. Hall	Applicant
Allen C. Laffranchini	Protestant
LaVerne Laffranchini	Protestant
S. M. Sheppard	Protestants' attorney
Floyd Halbert)	Upstream diverters
Janice Halbert)	
Luda Landaker)	
K. L. Woodward	Senior Hydraulic Engineer Division of Water Resources Department of Public Works Representing the State Engineer

oOo

DECISION

Substance of the Application

The applicants seek to appropriate 0.05 cubic foot per second from May 1 to November 1 of each year from West Tule Creek at a point in Trinity County within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 21, T31N R12W, MDB&M. Diversion is to be effected by gravity. The project includes a diverting dam, 1-foot high by 20-feet long and a short length of 8-inch diameter corrugated steel pipe. The water is to be used in irrigating 4 acres of alfalfa located within the same quarter-quarter section as the proposed point of diversion. The applicants claim to own both the land at the proposed point of diversion and the land upon which the water is to be used.

Protest

Allen C. and LaVerne Laffranchini protest the application, asserting that the diversion proposed thereunder would exhaust the supply in West Tule Creek and reduce the supply in Main Tule Creek, to which West Tule Creek is tributary and from which they divert under an old appropriative right. They assert further that their diversion heads at a point within the SE $\frac{1}{4}$ of Section 16, T31N R12W, MDB&M, approximately 3/4 mile below the applicants' point of diversion, that they irrigate gardens and orchards and water livestock, that they own

600 acres, that they utilize the full flow of Main Tule Creek from April to November inclusive and that they could use more water profitably if it were available. They mention no conditions under which their protest may be disregarded and dismissed.

Answer

In answer to the protest the applicants assert that for more than 6 years last past they have been using waters from West Tule Creek in the manner set forth in their application, deny that the protestants at present or for many years have utilized all of the waters of West Tule Creek beneficially or that they are entitled so to do, allege that the flow of West Tule Creek is sufficient to enable them (the applicants) to continue to divert as they have been doing, offer to make any reasonable adjustment that will enable their use of West Tule Creek water to continue.

Field Investigation

The applicants and the protestants with the approval of the Division having stipulated to the submittal of the application and protest upon the official records, a field investigation was conducted on August 23, 1955 by an engineer of the Division. The applicants and the protestants were present or represented during the investigation.

Records Relied Upon

Application 15418 and all information on file therewith; Hyampom and Hayfork quadrangles, United States Geological Survey.

Information Secured by Field Investigation

According to the report covering the field investigation of August 23, 1955, West Tule Creek heads at an elevation of about 4,000 feet, flows easterly about 3 miles to its junction with Tule Creek, Tule Creek continues about 2 miles northerly from that junction and discharges into Hayfork Creek, the watershed above the junction of West Tule and Tule Creeks is for the most part steep and wooded, summer flow is mainly dependent upon winter and spring rainfall. As to flows observed by the investigator the report states:

" ... a flow of 0.38 cfs was measured at the protestants' point of diversion. This entire flow was being diverted by them for irrigation purposes. At that time about 0.40 cubic foot per second was being diverted from West Tule Creek by Halberts and Landaker and about the same amount was being diverted by the applicant from the main Tule Creek ... about 3/8 mile above the West Tule Creek junction. This diversion is made under on alleged existing right Although the flow observed on August 23 ... may ... be the lowest for the season, Mr. Laffranchini stated that the flow drops off rapidly at the conclusion of the spring rains and then the stream maintains a somewhat uniform flow throughout the remainder of the dry season."

As to water utilization by the applicants the investigator

reports that the proposed diversion works are in place and, according to ^{Mr.}Hall, the proposed place of use has been irrigated for the past 6 or 7 years. The investigator reports that that place of use touches both West Tule Creek and Tule Creek and is probably riparian to both. He also reports that at the time of the investigation about 10 gallons per minute were flowing at the applicants' point of diversion, on West Tule Creek, that that flow was composed of waste or runoff from the applicants' diversion on Tule Creek; also that the entire flow of West Tule Creek was being diverted at a point some 500 feet above the applicants' intake on that stream by parties named Halbert and Landaker, under an alleged appropriate right of long standing. As to water utilization by the protestants the report states:

"The protestants divert from main Tule Creek Water is diverted by gravity The water is conveyed ... through an earth ditch which ... extends for over 1 mile. Of the 0.38 cfs ... diverted on August 23, 1955, only 0.17 cfs was reaching the place of use, the difference being channel losses. There are no users between applicants and protestants or between protestants and Hayfork Creek.

"The protestants claim to be diverting under a right initiated ... in 1887. . . . According to protestants this right was initiated to irrigate two 160-acre homesteads which they now own. A total of 600 acres is claimed ... but the additional land is nonirrigable. Of the 320-acre homesteads a maximum of 140 to 145 acres are irrigable and apparently have been irrigated ... to the extent that the supply was available. The

protestants have 50 to 60 acres of alfalfa and pasture which are in rather poor condition due to insufficient irrigation. All of the irrigable acreage is seeded to crops which could beneficially utilize water if available.

As to streamflow at other times the investigator quotes Protestant Laffranchini as stating that in the 28 years that he has owned the property streamflow after June 1 has never been in excess of the capacity of his ditch (estimated by the investigator to be about 2 cubic feet per second); and as stating further that in 1955 he diverted the entire flow reaching his point of diversion as early as May 1. Additional extracts from the report of field investigation are as follows:

"Halberts and Landaker have a common dam and ditch system to divert from West Tule Creek at a point about in the center of Section 21 They claim an old appropriative right to divert to the full capacity of their ditch and ... that they begin taking the full flow of the creek around June 1. These parties jointly own about 100 acres of irrigable land and are presently serving 30 to 40 acres of pasture - the supply is allegedly insufficient to increase their use."

"The upstream diversion of the applicants from main Tule Creek is by gravity and used to irrigate about 15 acres of pasture."

"The 250-miner's inch right to Tule Creek claimed by the protestants is undoubtedly in excess of the available supply during the major part of the irrigation season However, a right has probably been maintained to the extent of the available supply or to the ditch capacity, whichever is less. In view of the irrigable land owned by them and the conservative manner in which water is presently being applied in order to cover as much land as possible, in view of the fact also that protestants irrigate continuously throughout each irrigating month,

unappropriated water would appear to exist ... only at such times and to the extent that water passes downstream from their dam. . . . It is ... believed that the application should be denied in its entirety."

Discussion

Within the applicants' proposed 6-month irrigation season (May through October) unappropriated water, according to the available information, exists usually through May but not ordinarily thereafter. A supply of such short duration is manifestly insufficient for the purpose for which its appropriation is sought and its use for that purpose, under the circumstances, would appear to be of negligible benefit.

Conclusion

In view of the apparent nonexistence of unappropriated water after about June 1 of each irrigation season and the insufficiency for irrigation of a supply that fails so early it is the opinion of this office that unappropriated water is not available for beneficial use by applicants and that Application 15418 should therefore be denied.

oOo

ORDER

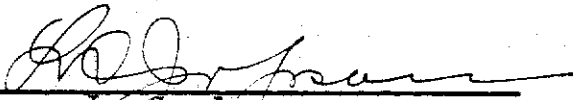
Application 15418 having been filed with the Division of Water Resources as above stated, a protest having been filed, stipulations having been submitted, a field investigation having been conducted and the State Engineer now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 15418 be rejected and canceled upon the records of the Division of Water Resources.

WITNESS my hand and the seal of the Department of Public Works of the State of California this 1st day of March, 1956.

HARVEY O. BANKS, STATE ENGINEER

By


L. C. Jopson
Assistant State Engineer

