

BEFORE THE DIVISION OF WATER RESOURCES
DEPARTMENT OF PUBLIC WORKS
STATE OF CALIFORNIA

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In the Matter of Application 7570 of Dalbert M. Greenleaf
to Appropriate Water from Bitter Creek and Greenleaf
Springs in Ventura County for Irrigation and
Domestic Purposes.

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DECISION A. 7570 D- 361

Decided *September 8, 1934*

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APPEARANCES AT HEARING HELD AT LOS ANGELES, AUGUST 7, 1934.

For Applicant

Dalbert M. Greenleaf

No appearance

For Protestant

Pacific Western Oil Company

Dockweiler & Dockweiler
by Frank P. Jenal

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EXAMINER: Harold Conkling, Deputy in Charge of Water Rights, Division of
Water Resources, Department of Public Works, State of California.

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O P I N I O N

GENERAL FEATURES OF APPLICATION 7570

Application 7570 was filed by Dalbert M. Greenleaf on May 31, 1933.

It proposes an appropriation of 0.2 of a cubic foot per second from Bitter
Creek and 0.005 of a cubic foot per second from Greenleaf Springs both sources
being tributary to Piru Creek via Lockwood Creek. Applicant proposes to di-
vert the water within the SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 27, T 8 N, R 21 W, S.B.B.&M.
for irrigation purposes on five and one-half acres of land within SE $\frac{1}{4}$ of SE $\frac{1}{4}$
and for domestic use within the SE $\frac{1}{4}$ of SE $\frac{1}{4}$ and SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 27,

T 8 N, R 21 W, S.B.B.&M. The irrigation season extends from about May 1st to about October 1st of each season. Domestic use will be made throughout the entire year.

The application was protested by Pacific Western Oil Company.

PROTEST

The Pacific Western Oil Company claims the ownership of approximately 7300 acres of land within that portion of the "Temescal Ranch" lying west of the easterly boundary of Ventura County known as the "Pacific Western Temescal Ranch." The waters of Piru Creek flow through this ranch and protestant claims that it and its predecessors in interest are now using and for many years last past have used the waters of Piru Creek for domestic, industrial and irrigation purposes on said ranch, the water being diverted at points on Piru Creek within the boundaries of said ranch. Protestant alleges in effect that the proposed diversion from the tributaries of Piru Creek will diminish both the surface and underground flow of said creek and would result in seriously curtailing its water supply.

HEARING SET IN ACCORDANCE WITH SECTION 1a
OF THE WATER COMMISSION ACT

Application 7570 was completed in accordance with the Water Commission Act and the requirements of the Rules and Regulations of the Division of Water Resources and being protested was set for a public hearing in accordance with Section 1a of the Water Commission Act on August 7, 1934, at 1:30 o'clock P.M. in Room 803 California State Building, Los Angeles, California. Of this hearing applicant and protestant were duly notified.

GENERAL DISCUSSION

Dalbert M. Greenleaf, the applicant, under date of July 30, 1934, informed this office that circumstances prevented his attendance at the hearing and presented his side of the question by correspondence.

The applicant emphatically denies that any of the waters of Bitter Creek and Greenleaf Spring contribute to the flow of Piru Creek during the irrigation season and states that were it not for a little development and care on his part, there would be only a damp spot in Bitter Creek during the summer months and that on July 30, 1934, the surface water of Bitter Creek was not flowing more than 100 yards past Greenleaf Spring.

Testimony presented at the hearing on behalf of the protestant indicated that its point of diversion on Piru Creek was situate at the upper or northern end of the Pacific Western Temescal Ranch which is some forty miles below the applicant's proposed point of diversion.

D. T. Staples, secretary of the Pacific Western Oil Company stated that approximately 315 acres of land were being irrigated out of about 800 or 1,000 acres susceptible of irrigation and that the Company was at the present time developing 40 acres additional for irrigation from Piru Creek; that at the present time there was a surplus of water flowing past the southern extremity of its ranch which is being used by the Piru Water Company.

George C. Williams, a geologist, and witness for the protestant testified that in his opinion the surface flow of Bitter Creek contributed to the flow in Piru Creek although it appears that he had not followed up the stream to determine whether or not the flow was continuous from applicant's point of diversion to the protestant's intake. It appeared also that the whole country above protestant's intake is folded and crushed

geologically and it is impossible to determine whether or not the underflow would contribute to protestant's supply.

The Division finds itself in a peculiar position with respect to the facts surrounding this case. Applicant was prevented by circumstances stated to be beyond his control from appearing at the hearing but submitted a written statement unverified to the effect that the sources from which he seeks to appropriate do not, during periods of low flow, contribute to the flow past protestant's point of diversion, but dissipate their waters immediately below his point of diversion. Protestant on the other hand appeared at the hearing but confessed to no definite knowledge upon this point alleging merely that it was believed these sources did contribute ~~continuously~~ to its supply. The Division has made no field investigation but inclines to the belief that the sources from which applicant seeks to appropriate make no substantial contribution to the protestant's supply at a point 40 miles downstream during critical periods of low flow. At other times protestant's witnesses admitted that surplus waters flowed past its point of diversion, which surplus protestant hoped later to divert and utilize under riparian claim. The Division is inclined to absolve doubts in favor of applicant under these circumstances rather than to deny these surplus waters to applicant because of a prospective use at some later date by protestant.

This office has received a favorable report from the Forest Service relative to granting right of way to the applicant but upon condition that sufficient water should be left in the sources for stock watering. A clause should therefore be inserted in the permit to the effect that at a point convenient of access facilities shall be provided and maintained to allow free use of water for domestic and stock purposes by the public.

O R D E R

Application 7570 for a permit to appropriate water 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 Division of Water Resources now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 7570 be approved and that a permit be granted to the applicant subject to such of the usual terms and conditions as may be appropriate and subject to a further special term and condition as follows, to wit:

At a point convenient of access facilities shall be provided and maintained to allow free use of water for domestic and stock purposes by the public.

Witness my hand and the seal of the Department of Public Works of the State of California this *5th* day of *September* 1934.

EDWARD HYATT, State Engineer

BY

Harold Conkling
Deputy

