

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

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In the matter of Application 8784 of A. K. and B. M. Anderson  
to appropriate from an Unnamed Spring, tributary to  
Middle Fork of Pallett Creek, in Los Angeles County  
for Irrigation and Domestic Purposes.

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DECISION A. 8784 D-401

Decided *June 7, 1937*

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APPEARANCES AT HEARING HELD AT LOS ANGELES, APRIL 28, 1937

For Applicants

A. K. and B. M. Anderson

Mrs. B. M. Anderson

For Protestant

George Winer

In propria persona

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 DESCRIPTION OF PROJECT

Under Application 8784 A. K. and B. M. Anderson propose to appropriate  
0.50 cubic foot per second from the waters of an unnamed spring tributary to the  
Middle Fork of Pallett Creek in Los Angeles County, throughout the year for ir-  
rigation and domestic purposes. The land to be irrigated comprises 38.5 acres  
within the SW $\frac{1}{4}$  SW $\frac{1}{4}$  Section 13, and 10 acres within the SE $\frac{1}{4}$  SW $\frac{1}{4}$  Section 13, T 4 N,  
R 10 W, S.B.B.A.M. Domestic use is also proposed within the SW $\frac{1}{4}$  NW $\frac{1}{4}$  Section 24,  
T 4 N, R 10 W, S.B.B.A.M. The point of diversion is described as being within

the NE $\frac{1}{4}$  NE $\frac{1}{4}$  (lot 5) Section 23, T 4 N, R 10 W, S.B.B.&M. It is proposed to collect most of the water into a ditch and thence into a 6 inch gravity pipe line through which it will be delivered to the area to be irrigated; the remaining portion will be collected into a sump from which it will be pumped to applicants' residence for domestic use.

B. M. Anderson now has Application 7464, Permit 4254 before this office for an amount of water not to exceed 0.25 of a cubic foot per second from the same source and under Application 8784 seeks to appropriate an additional 0.25 of a cubic foot per second with the understanding that if and when Application 8784 is approved, Application 7464, Permit 4254 will be withdrawn, there being no intervening priorities.

Application 8784 was protested by Big Rock Mutual Water Company, Llano Mutual Water Company and George Wimer. Just prior to the hearing however the protests of both companies were withdrawn leaving only the protest of George Wimer to be heard.

#### PROTEST

George Wimer claims a right to appropriate 150 miners inches of water from Pallett Creek at a point about three miles below the proposed diversion of applicants which right is based upon use commenced prior to the effective date of the Water Commission Act. The water is used throughout the year for domestic purposes and from about March 1st to about November 1st of each year for the irrigation of 7 acres of alfalfa and 5 acres of orchard. He alleges in effect that the water which applicants seek to divert contributes toward the flow at his intake and should Application 8784 be approved it would result in depriving him of water to which he is entitled thereby rendering his ranch practically worthless for farming purposes.

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

Application 8784 was completed in accordance with the Water Commission Act and the Rules and Regulations of the Division of Water Resources and being protested was set for public hearing in accordance with Section 1a of the Water Commission Act on Wednesday April 28, 1937, at 10:00 o'clock A.M. in Room 803 California State Building, Los Angeles, California. Of this hearing applicants and protestants were duly notified.

HYDROLOGY AND PHYSIOGRAPHY

Pallett Creek to which the spring in question is tributary rises in the Pleasant View Ridge of the San Gabriel Mountains and flows in a general northerly direction in three main forks, a distance of about 5 miles to the vicinity of the town of Pallett above which the forks meet. The creek then flows easterly a distance of about 2 miles to its junction with Rock Creek.

The drainage area of Pallett Creek above its junction with Rock Creek contains approximately 16.2 square miles, varying in elevation from a minimum of 3500 feet to a maximum of about 8000 feet above sea level. Of this drainage area approximately 14.5 square miles lie above the protestant's intake and about 2.9 square miles lie above the point on the Middle Fork of Pallett Creek where the waters of the spring from which the applicants seek to divert enter the creek.

The spring in question is located on the easterly bank of the Middle Fork of Pallett Creek, which is considered the main fork of the Creek, about 10 or 15 feet above the creek bed. According to testimony presented at the hearing the waters of the spring rise from a tertiary geological formation and pass through an alluvial fill probably not over twenty or twenty-five feet in depth.

At the site of the spring there is a moist area extending some 400 feet along the creek bed, this area being covered with lush vegetation, alders and water loving plants. It appears that during the winter and spring months the water of Pallett Creek flows on the surface throughout its length but as summer approaches the flow diminishes until finally there is no surface connection in the stream bed between applicants' and protestant's points of diversion.

During the summer months what little water there is in the creek bed is derived from springs along the bed and bank. In a state of nature the water from the spring from which applicants propose to appropriate would seep into the stream bed forming a small stream which would flow a short distance down the channel gradually disappearing into the gravels of the creek bed until no surface flow was present. From a point a few hundred feet below the spring the Creek bed is dry until it reaches the property of one T. P. Ferch where water again appears at or near the surface about three-quarters of a mile below applicants' point of diversion.

At this point Mr. Ferch has sunk a well about 30 feet deep on the bank of the creek from which he pumps for weeks at a time during the summer season at a rate of 75 to 80 gallons per minute without appreciably affecting the water level. There is a variation of some fifteen or twenty feet in level at different times of the year but each year it rises to within some eight feet of the surface indicating complete replenishment of the basin.

Just below the property of Ferch the water again sinks underground and does not reappear at the surface until just above the intake of the protestant where it is apparently brought to the surface by the San Andreas Rift which crosses Pallett Creek at the Narrows just below protestant's point of diversion.

#### USE OF WATER BY APPLICANTS

As stated above, one of the applicants has already initiated a right under Application 7464, Permit 4254 to appropriate 0.25 cubic feet per second from this same spring and the record indicates that under this right water has been used from January to October for domestic, garden irrigation and stock watering purposes to supplement a supply which applicants claim under an appropriative right initiated prior to the effective date of the Water Commission Act to appropriate 100 inches (2 c.f.s.) at a point on the Middle Fork of Pallett Creek about one mile above the applicants' spring. This surface supply disappears however during the summer months and applicant is dependent upon the waters of the spring for summer irrigation.

#### USE OF WATER BY PROTESTANT

Although protestant claims a right to 150 inches (3 c.f.s.) it appears from the record that he irrigates only 12 acres of land. The water which he diverts during the summer months is derived entirely from seeps from the banks and bed of Pallett Creek just above his point of diversion. The Los Angeles County Flood Control District has measured this flow during the last few years, all of which it appears has been diverted through protestant's intake. Records of these measurements were submitted by protestant at the hearing. It appears that in September 1930 the flow was 24 inches; that the average of eleven measurements made between April 23d and September 12, 1931, was between 15 and 20 inches with a minimum of about 10 inches in June; that in 1932 the flow during August was between 69 and 90 inches; that in 1933 the flow between June 3d and September 28th varied from 28 inches to 48 inches, that in 1934 the average flow from May 26th

to September 14th was approximately 32 inches; that in 1935 the average flow during the summer was about 60 inches and that in 1936 the average summer flow was about 32 inches. These amounts are grossly in excess of what is reasonably necessary to serve the twelve acres irrigated by protestant. Moreover protestant himself admitted that "in a year like we have now, everybody would have plenty of water and there would be no occasion to fight for it." (Page 31 of transcript.)

#### SUMMARY AND CONCLUSION

Applicants seek to divert the waters of certain springs or seeps along Middle Fork of Pallett Creek some three miles above protestant who likewise depends for his use upon springs or seeps issuing from the bed and banks of the stream. There is no surface flow connection during summer months between the diversion points of applicants and protestant. The surface flow disappears immediately below applicants' diversion point, reappears for a short distance some three-fourths mile below and almost immediately disappears again without reappearing until immediately above the diversion point of protestant.

The subsurface flow in such cases is in general so slow that diversions by the applicants would not affect the subsurface supply which reappears some three miles below and immediately above protestant's diversion point. Flood flows of the succeeding winter are more than ample to recharge the intervening storage basin in the creek bed before the subsurface flow at protestant's point of diversion could be affected. That this is true in the instant case appears well established by the testimony of Mr. Ferch that although he draws heavily upon the underflow at an intervening point the water level returns each year to approximately the same level after his pumping ceases.

But aside from these considerations it appears clear from the testimony of protestant himself that the normal summer flow at his diversion point exceeds what is reasonably necessary to satisfy his purposes. He irrigates only approximately 12 acres and the summer flow in recent years has seldom been less than  $3/5$  second foot.

We therefore conclude not only that there is surplus or unappropriated water at protestant's point of diversion but that the proposed diversion by applicants can have no appreciable effect upon the flow at protestant's diversion point during the summer months when there is no continuous surface flow between the two points.

O R D E R

Application 8784 for a permit to appropriate water having been filed with the Division of Water Resources as above stated, protests 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 said Application 8784 be approved and that a permit be granted to the applicants 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 *7th* day of *June*, 1937.

EDWARD HYATT, State Engineer

BY ERROLB CONKLING

Deputy

(Seal)  
WES:ENB:MP