

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

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In the Matter of Application 11691 of Rubin Tannenbaum to
Appropriate Water from Rattlesnake Canyon, Tributary to Poway Creek,
in San Diego County, for Irrigation Purposes.

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Decision A. 11691 D. 588

Decided November 9, 1948

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APPEARANCES AT INVESTIGATION CONDUCTED AT THE SITE OF THE PROPOSED
APPROPRIATION ON JULY 7, 1948:

For the Applicant

Rubin Tannenbaum

In propria persona

For the Protestant

Harold R. Bakkenson

In propria persona

For the State Engineer

J. J. Heacock, Associate Hydraulic Engineer, Division of Water Resources,
Department of Public Works, State of California.

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OPINION

General Description of Project

Application 11691 was filed by Rubin Tannenbaum on January 10, 1947. It contemplates an appropriation of 80 acre-feet per annum, to be collected between October 1 and May 31 of each season, from Rattlesnake Canyon, in San Diego County. The use to which the water is to be applied is irrigation, the proposed point of diversion lies within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 8, T. 14 S., R. 1 W., S. B. B. & M., and the place of use is to be a 30 acre field of alfalfa lying within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 7 of the same Township. According to the application the storage dam (to be called "Tannenbaum Dam") will be 30 feet in height, 330 feet in top length, and have a freeboard of 5 feet. It is to be constructed of earth. The storage reservoir will flood lands in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 8 and in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 5 of T. 14 S., R. 1 W., S. B. B. & M.; and will have a surface area of 7 acres and a capacity of 80 acre-feet. A 6" spiral weld, steel pipe 2600 feet long, of an estimated capacity of 225 gallons per minute, is planned, to conduct water from the reservoir to the place of use.

Protests

Harold R. Bakkenson, the only protestant, bases his objection not upon interference with his own water supply but upon the alleged belief that the proposed development will raise the water table of lands lying below the Tannenbaum development. This, he thinks, would render a portion of his land unusable because the underlying water table in years of normal rainfall already rises to within 1 $\frac{1}{2}$ to 2 feet of ground surface. The protestant makes no mention of diverting water himself. The terms under which the protest

may be disregarded and dismissed are that the applicant agree to reimburse the protestant for any damage resulting from the proposed dam, clauses to this effect, binding alike to the present parties and to their successors-in-interest, to be affixed to the titles to the properties involved.

The applicant answers the Bakkenson protest by asserting that the protestant's property is located over a mile below the proposed dam site and that the fluctuations of ground-water levels, which he fears may cause injury, are due both to variations in rainfall, and to variations in the flow of tributaries which enter Rattlesnake Canyon both above and below the protestant's land and will not be affected materially by his proposed development. The applicant indicates unwillingness to encumber his deed with a guarantee against damages to a neighbor's property, and questions the legality of the protest on account of it being directed against the construction of a dam rather than against the appropriation of water. He suggests that the proposed dam should tend to stabilize rather than to raise the water table by reducing flood flow on the one hand and, as a result of leakage past the dam and return flow from the land to be irrigated, by contributing somewhat to low water flow, on the other.

Field Investigation

The applicant and the protestant, 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 June 7, 1948 by an engineer of the Division. Both the applicant and the protestant were present during the investigation.

Records Relied Upon

Application 11691 and all data and information on file therewith.

Discussion

The character of the watershed tributary to the proposed dam-site - area, topography, soil mantle and rainfall - indicates that runoff therefrom probably occurs in amounts in excess of that named in Application 11691. It may be assumed that such water is surplus and subject to appropriation, there being no appropriative filings before the Division of Water Resources on the same source or on the stream into which it flows, and no protests against the application under discussion, based upon water rights of any description.

The protestant's contention that the proposed development would cause a rise in ground water levels was not confirmed by the investigation. The area which the protestant considers threatened - 5 acres in extent and situated within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 7, T. 14 S., R. 1 W., - is several hundred feet removed from the stream channel and approximately 1.4 miles downstream from the applicant's damsite. The investigating engineer's conclusion that return water from the applicant's proposed place of use would probably follow the stream channel and that subsurface water under the protestant's pasture (the land represented as threatened) probably originates to the north and northeast (i.e. in the watershed of tributaries other than Rattlesnake Creek), appears sound. To this conclusion it may be added that the watershed above the applicant's dam site is a fraction only of the watershed above the protestant's pasture, hence considerable runoff will pass the latter whether the dam is built or not. In view of the absence of any substantial evidence that the water table will be appreciably affected by the proposed operations of the applicant, the protest is dismissed.

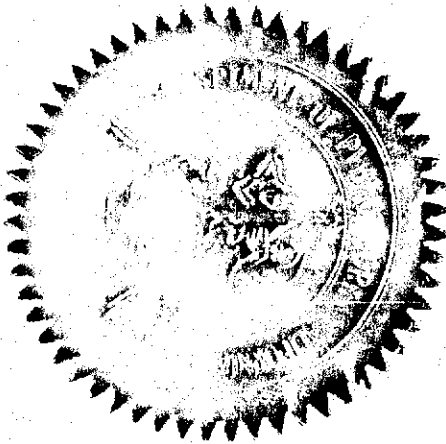
Order

Application 11691 for a permit to appropriate water having been filed with the Division of Water Resources as above stated, a protest 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 11691 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 9th day of November , 1948.




State Engineer