

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 13601 by Joseph H. Freeman to Appropriate Water from Big Morongo Creek in San Bernardino County for Domestic Purposes and Irrigation.

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Decision A. 13601 D. 726

Decided November 13, 1951

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IN ATTENDANCE AT INVESTIGATION CONDUCTED BY THE DIVISION OF WATER RESOURCES AT THE SITE OF THE PROPOSED APPROPRIATION ON APRIL 20, 1951:

Joseph H. Freeman	Applicant
Hugh M. Gallagher, General Manager, Coachella Valley County Water District	Protestant's representative
Miss Dunlap	Mr. Gallagher's Secretary
Albert S. Starbuck	Applicant's companion
B. F. Arnold and D. F. Geil	Representatives of Morongo Valley Chamber of Commerce
J. J. Heacock	Senior Hydraulic Engineer, Division of Water Resources, Department of Public Works, Representing the State Engineer

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O P I N I O N

General Description of the Project

The application contemplates an appropriation of 0.25 cubic foot per second, year-round, from Big Morongo Creek, tributary to Mission Creek, in San Bernardino County, the water to be diverted at a

point within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 18, T1S R4E, SBB&M. Diversion is to be by gravity. The project includes a rubble masonry diverting dam, 2 feet high by 25 feet long, a 0.25 acre foot regulatory reservoir and a 4 inch steel pipe line 2000 feet long. The water is to be used for domestic purposes and irrigation, the place of use being designated as 20 acres within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ and 10 acres within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 17 of the same T1S R4E. A 20 acre orchard and 10 acres of general crops are to be irrigated, the irrigation season extending from May to September, both inclusive. No other water right or source of water supply is claimed. According to the application the land described is now under lease from the United States.

Protest

The Coachella Valley County Water District protested the application claiming ownership of permits covering all available water from Big Morongo Creek and complete utilization of all waters of that and certain other streams. In this connection it mentions Permits 536 and 3011 (Applications 1122 and 2922). The protest contains the following statement:

"Extending from the year 1895 and increasing progressively from that time, water has been taken from the closed underground basin of Coachella Valley by wells for domestic use and for irrigation of the agricultural lands of the area. Such water, now under permits listed above, are carefully diverted to gravel areas where surface waters are put underground for use from the well system. At present some 20,000 acres of land have their supply for agricultural purposes from the water covered by the permits of this District listed above. In addition, all of the towns of Coachella Valley, except Palm Springs, as well as all farm homes obtain their domestic water supply from the underground water covered at the point of diversion by Permits 536 and 3011. Continuous well observations recorded by this

District show clearly that there has been used beneficially under the terms of the existing permits all of the inflow into the area. The underground water basin has been progressively decreased, the rate of decrease accelerated as agricultural and domestic uses of water were extended. It is the estimate of this District that, from the sources of water available to the Coachella Valley, there is an annual inflow estimated at 55,000 acre feet per year; during the past year, more than twice that amount of water was pumped from the underground basin, the difference between the inflow and use being taken from the underground basin reserve. It is evident, with the increased use of water in the upper reaches of Coachella Valley and for domestic and necessary agricultural uses in the lower part of the Valley, that the incoming supply will never conceivably cover the uses apparent in the development of the Valley. For at least 25 years, the reserve basin of the Valley has been depleted each year, and it is not conceivable that such depletion of the underground supply will materially change."

The protest contains also the following statement:

"This protest may be disregarded and dismissed if Mr. Freeman withdraws its application to appropriate water or if said application is amended to clearly show filings which are not in conflict with those of the Coachella Valley County Water District as noted in the permits which said District now holds."

Answer

The applicant answers the protest by stating;

"(1) There is no evidence at the site of the proposed point of diversion of any structures or works of any nature to show that Coachella Valley County Water District, or any one, has ever attempted to confine the flowing waters of Big Morongo Creek to a pipe line, flume, ditch or other carrier.

"(2) There are no means of proving that the waters from this source are not used by pumping from wells by others before reaching wells operated by the District.

"(3) There is considerable vegetation in the stream bed downstream from the proposed point of diversion. Use anticipated under this application would reduce loss by transpiration by no longer supplying water to such vegetation.

"(4) The proposed place of use is within the same watershed as is the source. The greater part of the water used will be returned to the soil within the tributary area to the closed underground basin of Coachella Valley."

Contained in the answer also is a stipulation, and a suggestion that the protestant join in the stipulation, to the effect that both parties shall accept a decision by an engineer of the Division of Water Resources, following his investigation.

Field Investigation

The applicant and the protestants 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 April 20, 1951, by an engineer of the Division. The applicant was present and the protestant was represented at the investigation.

Records Relied Upon

Application 13601 and all data and information on file therewith.

Discussion

According to the report of investigation the applicant's proposed point of diversion is at the lower end of a reach of rising water that is marked by several acres of large alders and thick brush growing in the trough of the canyon; the watershed above the proposed point of diversion is steep, rough mountain side, about 13.3 square miles in extent, with light to medium cover of brush and timber; precipitation over the watershed averages about 16 inches and has been below normal for the last several years. The report also states that the flow at the Desert Water Company's intake amounted to approximately 15 gallons per minute, that considerably more probably could be developed, and that the flow out of Morongo Valley, rising in the SW $\frac{1}{4}$ of Section 28, T1S R4E

amounted to over 1.5 cubic feet per second, indicating the possibility of a fair underflow at the proposed point of diversion. In the course of the investigation, the report states, the applicant requested that his application be reduced in amount to 0.25 cubic foot per second and expressed himself as doubtful that that amount would be used; and the protestant's representative stated that the protest would not be withdrawn but that the protestant did not wish to hamper development except as it interferes with its own water supply. Further information contained in the report of investigation is to the effect that Big Morongo Creek is tributary via Mission Creek to Whitewater River, that the flow of Mission Creek is sub-surface except after heavy storms, that according to the topography of the area the direction of flow is to the southeast, and that Mission Creek drainage is largely tributary to Whitewater Valley easterly of or downstream from the easterly limits of the protestant District's area of diversion under adjudicated rights. The report also states that the applicant is riparian to the stream filed upon, that it is his intention to dig a well on his own property if the permit which he seeks is denied and that he states that he has prospected and found water a few feet below ground surface. The report states that the protestant District holds two rights under the Whitewater River Adjudication Proceedings for a total of 119,000 acre-feet per annum, to be spread in the upper river area and to be withdrawn from storage by inhabitants of the District. The report quotes from the University of California publication "Hydrologic Studies in Coachella Valley, California" by Huberty, Pillsbury and Sokoloff, June, 1948, as follows:

"Ground Water Levels.- In the past, estimates have been made of the 'safe yield' of Coachella ground-water -- the rate at which it can be pumped throughout the valley without exceeding the supply. It is our opinion that there are not enough data available to make an accurate estimate of safe yield. Certainly the supply appeared to be adequate

for the irrigated area of the period 1936 - 1939 and could possibly be adequate, with careful use, for a greater area. During that period withdrawal from wells appears to have been about 100,000 acre-feet a year. - - - - -"

The report of investigation also states that since the war the east side canal has been completed and Colorado River water is used for irrigation to a great extent, thereby lessening the extraction of ground water.

Application 1122 Permit 536, referred to in the protest, is for an appropriation of 400 cubic feet per second, for domestic and agricultural purposes at designated points along Whitewater River and Snow Creek. Application 2922 Permit 3011, also mentioned in the protest, is for an appropriation of 39,000 acre-feet per annum for domestic purposes and irrigation, the water to be diverted at designated points on Whitewater River and from 6 tributaries which run northerly, northeasterly and/or easterly toward or into Whitewater River. The time within which to complete construction of works and application of water to beneficial use has been extended in both instances to June 30, 1953.

Whitewater River and its tributaries, where diversion is specified under Applications 1122 and 2922, are not ordinarily living streams. In this connection the publication "Hydrologic Studies in Coachella Valley, California" states:

"Although the watershed has an area of about 1200 square miles the mean annual discharge is not large since the greater part of the shed is desert. Only during flood stage does surface water reach Salton Sea, as the normal flow quickly enters the highly permeable alluvial fans. In fact, with the exception of a small area in and above Palm Springs, all irrigation water in Coachella Valley is now obtained from wells."

Operations under Applications 1122 and 2922, limited as they evidently are to periods of flood stage, cannot be affected materially by the con-

tinuous diversion, small in quantity and remote as to location, proposed in Application 13601.

Admittedly a diversion such as the applicant proposes will tend to reduce the ground water supply available to pumpers in Coachella Valley. In the first place however, the effect of the applicant's project upon ground water elevation will be immeasurably small; in the second place, while recession of ground water has occurred there is a possibility that it will again rise to an extent perhaps requiring artificial drainage. In this connection the publication mentioned in preceding paragraphs states:

"If, upon the utilization of Colorado River water, all pumping of native water were to cease a marked rise in water levels would occur. - - - - -"

By decree entered December 9, 1938 in re Whitewater River, Action No. 18035, Superior Court, Riverside County, the rights by appropriation of the various claimants to the waters of Whitewater River and its tributaries were determined and established. Extracts from that decree are as follows:

"Except in times of extreme flood, the entire flow of said river sinks into the desert - - - - -"

"Mission Creek and the Morongo Creeks, although having large watersheds, drain areas of comparatively low precipitation and consequently contribute but little water except in times of flood."

* * * * *

"The various tributaries - - - - have built up debris cones where they debouch from their respective canyons and, except in times of flood, their entire flows sink in these cones, travelling through underground channels to the lower part of Coachella Valley."

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"This court ratifies, approves and confirms - - -
said findings - - - and herein enters judgment; said
rights - - - are as follows:

* * * * *

"Coachella Valley County Water District - - - entitled
- - - to spread and store underground certain of the
waters of Whitewater River - - -.

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"Each and every of the parties hereto - - - are enjoined
and restrained from any and all interference with - - -
the waters herein decreed - - - whenever such interfer-
ence - - - interferes with the diversion or use of the
said waters as decreed herein."

The protestant stated in Resolution No. 51-59, dated May 21,
1951, in effect, that it will not object to the approval of Application
13601 provided that any permit issued pursuant thereto shall be junior
and subordinate to the prior and existing rights of Coachella Valley
County Water District in and to the waters of Big Morongo Creek, whether
such rights have been adjudicated or otherwise. A clause of the nature
suggested by the protestant was incorporated in Permit 8177 which was
issued in approval of Application 13067, under which Palm Springs Water
Company sought to divert 4 cubic feet per second, year round, from Snow
Creek at a point upstream from a Coachella Valley County Water District
diversion. Since the situations presented under Applications 13067 and
13601 are similar and the possibility of interference exists in both,
although that possibility appears more remote in the latter situation
than in the former, it is considered equitable that a clause of the nature
of the one written into Permit 8177 be also written into such permit as
may be issued under Application 13601.

Conclusion

The information above set forth indicates that unappropriated water in the amount applied for probably exists at the proposed point of diversion, that the use proposed by the applicant is a beneficial use, that the effect, if any, of the proposed diversion upon the protestant District will be immeasurably small, and that the provisions of the Whitewater Decree do not preclude approval of the application. In view of these circumstances and of the possibility, apparently remote, of interference by the applicant's proposed diversion with authorized diversions by the protestant at points downstream, it is the opinion of this office that the application should be approved, subject to the usual terms and conditions, and subject also to a special provision designed to prevent such possible interference.

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ORDER

Application 13601 for a permit to appropriate water having been filed with the Division of Water Resources as above stated, a protest having been filed, a stipulated hearing having been held and the State Engineer now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 13601 be approved and that a permit be issued to the applicant, subject to such of the usual terms and conditions as may be appropriate and subject to the following special term and condition, to wit:

This permit or any license issued pursuant to said application shall be junior and subordinate to the prior and existing rights and permits of the Coachella Valley County Water District in and to the waters of

Big Morongo Creek within the Whitewater River watershed, whether said rights have been adjudicated or otherwise.

WITNESS my hand and the seal of the Department of Public Works of the State of California this

A. D. EDMONSTON
State Engineer