

STATE OF CALIFORNIA
PROCEEDINGS BEFORE THE
STATE WATER RIGHTS BOARD

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In the Matter of Application 16350 by Paul D. and Vinnie L. Johnson to appropriate from an Unnamed Drain Tributary to Glenn-Colusa Canal in Glenn County for Irrigation and Stockwatering Purposes.

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Decision A 16350 D 866

Decided November 30, 1956

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In Attendance at Investigation Conducted by the Division of Water Resources on May 7, 1956:

Paul D. Johnson

Applicant

J. Victor Scammon
Associate Hydrographer
Division of Water Resources
Department of Public Works

Representing the State Engineer

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DECISION

Substance of the Application

The application initiates an appropriation from a certain unnamed drain, tributary to Glenn-Colusa Canal, in Glenn County. The applicants seek to appropriate 1.7 cubic feet per second for direct diversion from March 1 to November 1 of each year, also 20 acre-feet per annum, collected between November 1 of each year and March 1 of the next and temporarily stored. The

water is wanted for irrigation and stockwatering purposes; a 5-acre orchard and 295 acres of pasture are to be irrigated, 300 sheep and 125 head of cattle watered. Direct diversion and diversion to storage are to be effected at points within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ and the SE $\frac{1}{4}$ SW $\frac{1}{4}$, respectively, of Section 12, T21N R3W, NDB&M. The project includes a storage dam, 5 feet high by 335 feet long, which creates a reservoir 6 acres in surface area and 20 acre-feet in capacity. It also includes a pump of a capacity of 765 gallons per minute, 13,200 lineal feet of 14-inch and 3,960 lineal feet of 12-inch concrete pressure pipe. The applicants state that they own both the land upon which the diversion works are located and the land upon which the water is to be used; they state further that their land is also supplied from wells.

Protest

Glenn-Colusa Irrigation District protests the application, alleging that diversions as proposed thereunder will deprive it of water which it requires for irrigation of land within its boundaries and to which it has established rights. Extracts from its protest are as follows:

" ... District ... has supplied water to ... rice, ... general crops, and clover ... and to supply these crops its water rights are fully used and (it) depends on all possible recovery of water ... which (it has) a right to recapture ... in order to irrigate the lands within ... district.

"Applicants seek to divert water ... which is ... water of protestant and not water subject to appropriation. During the irrigation season ... no water

exists in said drain except water that was pumped by protestant, Provident Irrigation District, Compton-Delevan Irrigation District, Princeton-Codora-Glenn Irrigation District or Jacinto Irrigation District, from the Sacramento River and transported to said districts at their cost and expense and then finds its way by spill and seepage into said drain."

"Said districts have entered into an agreement dated June 2, 1953 ... with Reclamation District No. 2047 whereby ... said districts are given the right to use any and all waters in the drains of said Reclamation District, and each of said districts grants the water it contributes to drains throughout the areas and not used within its boundaries to the other of said districts."

"Each of said irrigation districts ... has been for many years diverting water from drains at point of diversion set forth in said agreement and at other points and the result is that there is now no water available for appropriation at the points of diversion of applicants during the months of March to October."

Answer

In answer to the protest the applicants state that the water which they seek to appropriate has been used on their proposed place of use for more than five years prior to the filing of their application, that no water has escaped from their property during those five years, that the swale or drain which is their proposed source is not tributary to protestant's canal, that said swale drains lands to the north and west of their property and carries water only as placed therein by upper landowners, none of whom have lands in any irrigation district or reclamation district referred to in the protest.

The applicants aver specifically that none of the water they seek to appropriate is pumped by protestant or by any of the districts named in the protest, said districts being situated several miles distant from their (the applicants') lands.

Field Investigation

The applicants and the protestant with the approval of the Division of Water Resources stipulated to the submittal of the application and protest upon the official records and a field investigation was conducted on May 7, 1956 by an engineer of that Division. The applicants were present or represented at the investigation. The protestant while duly notified as to the time and place of investigation, did not participate therein.

Records Relied Upon

Application 16350 and all relevant information on file therewith; Orland, Hamilton City, Glenn and Willows quadrangles, United States Geological Survey; Reports of Sacramento-San Joaquin Water Supervision, Division of Water Resources; Bulletin No. 37 - " ... Data Pertaining to ... Districts in California" - Division of Water Resources, 1930.

Information Obtained by Field Investigation

Extracts from "Report of Division of Water Resources on Application 16350" (filed with the application) are as follows:

"Mr. Paul D. Johnson accompanied the writer on the investigation. Protestant ... did not have a representative present The investigation made May 7, 1956, included an inspection of applicants' project; an inspection of the area above applicants' project ... to determine the source of water available ... and an inspection of the unnamed drain ... in order to determine use below applicants."

"The project, according to Johnson, has been complete for at least five years, the former owner having failed to make an application. The reservoir and pump are shown on the Orland Quadrangle ... issue of 1950. The project as far as construction is concerned was found to be complete and as described in the application. The place of use is also served by three wells connected into the underground pipe line system and by another smaller reservoir which collects applicants' own waste water. This smaller reservoir is located about one-quarter mile northeast of the larger reservoir and is not a part of this appropriation. Diversion (2) described in the application is the dam forming the reservoir and diversion (1) is the pump from the reservoir, which is actually a point of rediversion."

"The source is an unnamed drain which carries natural storm drain water during the winter and waste return water from upper irrigated lands during the summer. At the time of this investigation there was practically no flow in the drain. No return flow was present because sufficient rain had recently fallen over the area making irrigation unnecessary."

"... several ditches and small drains contribute to the flow reaching applicants' reservoir. The (best) defined channel ... carries waste water from U.S.B.R. Orland Project in addition to waste water from private wells."

"Applicant stated his reservoir had filled and spilled during the winter months and that he had used about 12 acre-feet from the reservoir thus far this spring. About 8 acre-feet remained in the reservoir at the time of this inspection."

"An inspection of the unnamed drain ... below applicants' project revealed the channel to be dry

throughout the remaining distance to protestant's canal. From inspection and from interviews with owners of land along the unnamed drain the writer concludes that no water customarily flows in this lower portion of the drain during the summer months."

"The small reservoir shown on the Orland Quadrangle ... just 3/4 mile below applicants' project was dry"

"An earth dam ... has been constructed across the unnamed drain, forming a reservoir of about 20 acre-feet capacity from which a pump of 765 gpm capacity diverts water into a concrete pipe line system, serving about 300 acres. The water stored in the reservoir and that which is collected during the irrigation season from waste water from lands above is first used as long as available and three wells are used whenever no water is available from the unnamed drain."

"It ... appears that this drain does not customarily carry water through its lower portion during the irrigation season."

"From observations on the ground and from statements by the applicants and other parties ... it is certain that all water available for the direct diversion portion of the application during the irrigation season is from waste water of the Orland Project or from private wells in the immediate vicinity above applicants' project, none of which is in any way owned or controlled by protestant"

"The storage portion of the application is not an issue since the season of diversion to storage is during the period when surplus water is not needed by protestant."

Other Information from Office Files

According to map contained in Bulletin No. 37, Division of Water Resources, Department of Public Works, the applicants' lands lie some four miles outside of the irregular, northwesterly

boundary of Reclamation District 2047. According to Orland quadrangle, United States Geological Survey, the distance via "unnamed drain", from applicants' lowermost point of diversion downstream to the point where that channel intersects the nearest boundary (as delineated on the map in Bulletin 37) of the reclamation district, scales approximately 5.8 miles. The channel distance, downstream, from that intersection to the intersection of "unnamed drain" with Glenn-Colusa Canal, scales (on Hamilton City and Glenn quadrangles) approximately 2.5 miles. According to the quadrangles "Unnamed Drain" just below applicants' dam is at about elevation 185; at its intersection with Glenn-Colusa Canal it is at about elevation 130. According to map contained in Report of Sacramento-San Joaquin Water Supervision for 1944, Division of Water Resources, all of the irrigation districts mentioned in the protest against the application lie to the east or south of the applicants' project and at lower elevations than that project.

No water right applications by either Glenn-Colusa Irrigation District or Reclamation District No. 2047 appear to be of record.

Numerous appropriations by individuals and entities at points along Colusa Trough and Back Borrow Pit -- channels west of and roughly paralleling Sacramento River -- are of record. There are also connecting channels, both natural and artificial, through which waters originating in "Unnamed Drain" might find

their way to the intakes of these appropriators. Records of flow in Colusa Trough and in Back Borrow Pit, contained in published reports of Sacramento-San Joaquin Water Supervision indicate that excesses over the requirements of appropriators usually exist in those channels.

Discussion

While protestant may be entitled to recapture and reuse drainage from lands within its boundaries or even from lands within the boundaries of Reclamation District No. 2047 as it alleges itself to be, it is not apparent that protestant has any valid claim to drainage or return flow from lands along "Unnamed Drain" above the points at which the applicants seek to appropriate; and the protestant's assertion that the water which the applicants seek to appropriate is water pumped by protestant or other districts from Sacramento River is at variance with information otherwise at hand.

The field investigation establishes that the water reaching the applicants' proposed points of diversion during the irrigation months consists mainly of return flow from lands upstream from the applicants and well outside of both Glenn-Colusa Irrigation District and Reclamation District No. 2047. The quadrangles indicate that "Unnamed Drain" at applicants' proposed point of diversion is some 55 feet higher than at its intersection with Glenn-Colusa Canal. Protestant evidently cannot serve applicants' lands or lands along "Unnamed Drain"

above the applicants by gravity, and there is no indication in the available information that protestant serves such lands or lands that drain into them by pumping.

That protestant's main purpose in diverting water is to supply irrigators, that irrigation in protestant's service area extends from early April to late October and that protestant operates no reservoirs of consequence are matters of common knowledge. It follows that protestant cannot be adversely affected by upstream diversion in non-irrigation months.

Since the protestant appears to hold no valid right to return flows from irrigation above applicants' project and cannot be injured by diversions by the applicants at times when irrigation is not in progress, its protest is an insufficient basis for the rejection of the application. In the absence of protests by appropriators along Colusa Drain and Back Borrow Pit and in view of the indication by streamflow records that supply usually exceeds demand along those channels, it may be presumed that such flow as occurs at the applicants' proposed points of diversion on "Unnamed Drain" is subject to appropriation.

Conclusion

The information indicates that unappropriated water exists in the source from which the applicants seek to appropriate and that such water may be taken and used beneficially in the manner proposed in the application without injury to the

protestant or other downstream user. It is the opinion therefore of the State Water Rights Board (successor **in jurisdiction** to the Division of Water Resources on July 5, 1956 in matters relating to the appropriation of water) that Application 16350 should be approved and that a permit should be issued to the applicants, subject to the usual terms and conditions.

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ORDER

Application 16350 for a permit to appropriate unappropriated water 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 Water Rights Board now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 16350 be approved and that a permit be issued to the applicants, subject to **such of** the usual terms and conditions as may be appropriate.

Dated at Sacramento this 30th day of November, 1956.

/s/ Henry Holsinger
Henry Holsinger, Chairman

/s/ John B. Evans
John B. Evans, Member

/s/ W. P. Rowe
W. P. Rowe, Member

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