

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

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In the Matter of Application 5720 of Harriet N. Dimond
to appropriate from an Unnamed Stream Tributary of
La Honda Creek in San Mateo County, for Domestic
and Fire Protection Purposes

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DECISION A 5720 D 201

Decided

July 14, 1928

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APPEARANCES AT HEARING HELD May 15, 1928

For Applicant

Harriet N. Dimond

Cyril Williams

For Protestants

R. W. Krobitzsch

Elliott M. Epstein and
W. R. Bartley

W. R. Bartley

in propria persona

EXAMINER Everett N. Bryan, Deputy Chief for Harold Conkling, Chief
of Division of Water Rights, Department of Public Works,
State of California.

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O P I N I O N

GENERAL FEATURES OF APPLICATION

Application 5720 was filed on October 13, 1927, by Harriet N.
Dimond. It proposes an appropriation of 4,000 gallons per day throughout
the entire year to be directly diverted from an unnamed stream tributary
of La Honda Creek in San Mateo County for domestic and fire protection pur-
poses. The diversion works are completed and are in partial operation and
consist of a small dam across the stream at an elevation of about 1,500 feet

above mean sea level, a 2 inch pipe leading into a 5,000 gallon redwood tank from which water is drawn by a triplex pump of 1,200 gallons per hour capacity and pumped a vertical height of about 258 feet into a 20,000 gallon distribution tank from which the water is conducted to the house and grounds through a three inch pipe.

The application was protested by R. W. Krobitzsch prior to the hearing, and W. R. Bartley appeared against the application at the hearing.

PROTESTS

The protest of R. W. Krobitzsch was filed February 16, 1928. He claims riparian rights and use of water for domestic purposes since 1915 and alleges in effect that the approval of the application would deprive him of water for domestic and irrigation purposes. He states that he is subdividing and selling his property. The points of diversion of the protestant are located within Section 22, T 7 S, R 4 W, M.D.B. & M.

Mr. W. R. Bartley although not a record protestant appeared at the hearing against the approval of Application 5720. He claims riparian rights and alleges in effect that the proposed diversion of the applicant would interfere with his use of water for swimming pool purposes.

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

Application 5720 was completed in accordance with the Water Commission Act and the requirements of the Rules and Regulations of the Division of Water Rights and being protested was set for a public hearing in accordance with Section 1a of the Water Commission Act on May 15, 1928 at 10:00 o'clock a.m. in Room 118 State Building, San Francisco, California. Of this hearing applicant and protestants were duly notified.

PHYSIOGRAPHY AND HYDROGRAPHY

The unnamed stream which is the applicant's proposed source of diversion rises in the range of mountains which runs northwesterly and southeasterly about $5\frac{1}{2}$ miles westerly of Stanford University at Palo Alto, at a point on the west side of Skyline Boulevard and flows southwesterly for a distance of approximately $1/2$ mile to its junction with La Honda Creek.

The watershed which contributes to the flow in the unnamed stream above its junction with La Honda Creek has an area of approximately 2.2 square miles. Above the point of proposed diversion the drainage area is about 0.1 of a square mile which is less than the area of applicant's estate which is about 0.115 of a square mile.

The area of the entire drainage system of San Gregorio Creek to which La Honda Creek is tributary has an area of approximately 54.5 square miles and the drainage area above the protestant's point of diversion at Troutmere dam on La Honda Creek is approximately 22.2 square miles.

A record of stream flow was presented at the hearing which indicated that the flow in the unnamed creek at applicant's proposed point of diversion was generally speaking about one-half of the flow at the lower property line of the Dimond Estate.

During the period from September 22nd to December 27, 1927 thirteen measurements were made of the stream flow at the applicant's proposed point of diversion. The measurements indicated that during this period the flow varied from 3,251 gallons per day to 4,348 gallons per day, the average of the thirteen measurements being about 3,560 gallons per day. The flow at the lower end of the Dimond Estate was more than double this amount.

During this period there had been very little rainfall. In fact the rainfall records at Palo Alto show that from June 8th to October 30, 1927

only 0.20 of an inch of rain had fallen of which 0.18 fell on October 25th. During the year 1927 the rainfall at San Jose was 13.07 inches or 1.80 inches below normal which would indicate that the year 1927 was not far from a normal year.

From the above it may be concluded that the normal flow in the unnamed stream at applicant's point of diversion during the summer months is approximately the amount which the applicant proposes to divert.

On February 9, 1928 the flow in the unnamed creek was 31,169 gallons per day at the proposed point of diversion. At a point on applicant's estate 750 feet downstream from the proposed point of diversion, the flow was 56,842 gallons per day. The flow in La Honda Creek just above the junction with the unnamed creek was 1,119,000 gallons per day and just below the junction was 1,273,000 gallons per day. As these flows were measured a short time subsequent to precipitation the measurements are not indicative of what might be expected during the critical period which is from about June 1st to about November 30th in a year of normal runoff.

Measurements of flow in San Gregorio Creek were made by the Spring Valley Water Company during the period from July 1, 1915 to June 30, 1917. The measurements were made on San Gregorio Creek at a point about one-half mile below the junction of La Honda and Alpine Creeks. These records indicate that during the period from July 1st to November 30, 1915 the average daily flow in San Gregorio Creek was 4.87 cubic feet per second varying from a minimum of 4.5 cubic feet per second to a maximum of 5.8 cubic feet per second. For the period from June 1st to November 30, 1916 the average daily flow was 2.0 cubic feet per second varying from a minimum of 1.3 cubic feet per second to a maximum of 3.2 cubic feet per second.

The rainfall at San Jose for the year 1915 was 146.3% of normal and for the year 1916 was 116.5% of normal. Assuming that the runoff is directly proportional to the rainfall the average daily runoff for a year of normal rainfall based upon the 1915 and 1916 measurements would be 3.32 cubic feet per second and 1.71 cubic feet per second respectively or taking an average of these two figures would be about 2.5 cubic feet per second.

As the point of measurement is located a short distance above Troutmere the highest point of diversion of protestant Krobitzsch, the average daily flow in San Gregorio Creek during the critical season which in a year of normal runoff is from about June 1st to about November 30th, may be assumed to be 2.5 cubic feet per second or an amount of water which under ordinary conditions would be sufficient to irrigate at least 200 acre.

Two and five tenths cubic feet per second is equivalent to a flow of 1,615,792 gallons per day of which amount the applicant seeks to divert 4,000 gallons per day or about 1/4 of one percent.

The protestants directed the attention of this office to the fact that the measurements of flow submitted by the applicant were made during the wet season of the year and that no figures had been presented covering the flow of the stream during the dry season which was from May 1st to September 1st of each year.

The measurements of flow in San Gregorio Canyon made by the Spring Valley Water Company clearly indicated, however, that the flow in the creek gradually decreased during the two years of record to a minimum in the month of November and that the flow from September 1st to November 30th of each year of record was much less than the flow from May 1st to September 1st.

The flow in San Gregorio Creek it is believed is indicative of the character of flow in all its tributaries and since the period from September

22nd to November 29, 1927 is covered by seven measurements of the flow of the unnamed stream at applicant's proposed point of diversion it is believed that these measurements are indicative of those which might be expected during the period of lowest flow in a normal year of runoff.

USE OF WATER BY PROTESTANTS

There was very little testimony presented at the hearing relative to the use of water below the proposed point of diversion. It appears that Mr. W. R. Bartley owns a tract of land which borders upon La Honda Creek for a distance of about 3/4 of a mile. He is apparently using water for swimming pool purposes only.

Mr. Krobitzsch has land bordering on La Honda Creek for about 3/4 of a mile and bordering upon San Gregorio Creek for a distance of about one mile. The San Gregorio property contains about 260 acres of which 100 acres are planted to artichokes and garden stuff and has been irrigated for 20 years. Altogether he owns about 1,200 acres and controls about 2,200 acres in that district although all of it does not border on the creek. Testimony presented at the hearing indicated that water was being diverted from La Honda Creek each year for camp sites and privately owned property and that there were a lot of people taking water out of La Honda Creek without permits. The only application on file in this office to appropriate from tributaries of San Gregorio Creek and La Honda Creek are Application 5219, Permit 2705 of the Cuesta-La Honda Company to appropriate 0.25 cubic foot per second throughout the entire year from Mindego Creek tributary of Alpine and San Gregorio Creeks for domestic purposes, and Application 5907 of J. R. Hughes, Helen Hughes and Geo. E. Carey to appropriate 0.027 cubic foot per second from the unnamed stream from which applicant seeks to divert.

Although testimony presented at the hearing was to the effect that there were at least fifty irrigators below the junction of La Honda Creek and its unnamed tributary, no statement was made as to the total area irrigated.

DISCUSSION OF PROTEST

It has been shown above that the watershed above the applicant's proposed point of diversion has an area of only 0.1 of a square mile which is less than 5% of the drainage area of the unnamed stream from which applicant seeks to divert, less than 1/2 of 1 percent of the drainage area above the point of diversion of the protestant on La Honda Creek, and less than two-tenths of one percent of the total drainage area of San Gregorio Creek and its tributaries. It therefore would appear that the amount which the applicant seeks to divert would be a very small proportion of the water which passes the diversion point of the protestant.

The protestant appears to be concerned as to the probable effect of the proposed diversion during years of small runoff rather than the flow during a year of normal runoff as evidenced by a statement made by Mr. W. R. Bartley, who represented Mr. Krobitzsch at the hearing. On page 18 of the transcript Mr. Bartley states as follows: "If that was a usual year, normal rainfall, the 4,000 gallons would not mean anything, but if we have a period of small rainfall, smaller rainfall than usual at that time, La Honda Creek is going absolutely dry year after year."

In its final judgment as to whether there is unappropriated water in the source from which an applicant proposes to divert to justify the approval of an application this office bases its action on the flow of the stream during a year of normal runoff. There may be times during years of subnormal runoff when the applicant would be compelled to limit his diversion in order to satisfy prior vested rights and in such cases the burden is

upon the applicant to so limit her diversion so as not to interfere with prior vested rights.

In this particular instance the evidence presented at and subsequent to the hearing indicated that during a year of normal runoff there was sufficient unappropriated water in the source from which the applicant proposes to divert to justify the approval of the application and as the use to which the water is to be put is a useful and beneficial one Application 5720 should be approved.

O R D E R

Application 5720 for a permit to appropriate water having been filed with the Division of Water Rights as above stated, a protest having been filed, a public hearing having been held, and the Division of Water Rights now being fully informed in the premises:

IT IS HEREBY ORDERED that said Application 5720 be approved and that a permit be granted to the applicant subject to such of the usual terms and conditions as may be appropriate.

Dated at Sacramento, California, this 14 day of July, 1928.

Harold Conkling
(Harold Conkling)
CHIEF OF DIVISION OF WATER RIGHTS

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