

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 Applications 11222, 11223, and 11232 by Charles L. Menning to Appropriate Water from an Unnamed Stream Tributary via Pallet Creek and from Unnamed Springs Tributary via Pallet Creek to Big Rock Creek in Los Angeles County for Irrigation and Domestic Purposes.

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Decision A. 11222, 11223, and 11232 D. 607

Decided May 10th, 1949

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APPEARANCES AT HEARING HELD AT LOS ANGELES, FEBRUARY 3, 1948:

For the Applicant

Charles L. Menning

(Surr & Hellyer  
(Attorneys at Law  
(by John B. Surr

For the Protestants

Big Rock Ranch Company )  
Llano Mutual Water Company )  
Big Rock Mutual Water Company )

(Harris, Kiech, Foster & Harris  
(Attorneys at Law  
(by Ford Harris, Jr.

EXAMINER - GORDON ZANDER, Principal Hydraulic Engineer, Division of Water Resources, Department of Public Works, for EDWARD HYATT, State Engineer.

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GENERAL DESCRIPTION OF THE PROPOSED DEVELOPMENT

Application 11222, filed November 19, 1945, originally contemplated the diversion of 0.50 cubic foot per second year-round for irrigation and domestic purposes on 4 acres within the NW $\frac{1}{4}$  NW $\frac{1}{4}$  and 36 acres within the NE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 24, T 4 N. R 10 W. SBB&M. The source designated is an unnamed stream tributary to Pallet Creek and the proposed point of diversion is described as lying within

the NE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 24 of the same township. Water is to be diverted by means of a concrete dam, 3 feet high and 8 feet long, and conveyed to the place of use by a 3 inch gravity pipe line 1500 feet long.

Application 11223, also filed November 19, 1945, is for 16,000 gallons per day (0.025 cubic foot per second), year-round, from an unnamed spring, within the NW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 24, T 4 N, R 10 W, SBB&M, for domestic use within the NE $\frac{1}{4}$  NW $\frac{1}{4}$  of the same section. The spring is tributary via Pallet Creek to Big Rock Creek. The proposed works include a collecting box and 1000 feet of 1 inch pipe.

Application 11232, filed December 1, 1945, also contemplates a diversion of 16,000 gallons per day, year-round, from a spring tributary to Pallet Creek. Water is wanted for domestic and irrigation purposes within the NE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 24, T 4 N, R 10 W, SBB&M. The spring is described as lying within the NW $\frac{1}{4}$  NE $\frac{1}{4}$  of the same Section. Installations will include a spring box and 1100 feet of 1 inch pipe.

#### PROTESTS

The Big Rock Ranch Company protests that it will be injured by the proposed appropriation, alleging that of its 1500 acres or more, adjoining and riparian to Big Rock Creek, over 200 acres are irrigated by water diverted from Big Rock Creek below the mouth of Pallet Creek, that it also obtains water from three wells located in the streambed below the same stream junction, under Application 5292, and that it also obtains water through ownership of stock in Big Rock Mutual Water Company and in Llano Mutual Water Company, which companies, it represents, are also supplied from Big Rock Creek and would be similarly affected.

The Big Rock Mutual Water Company claims ownership of all surface water of Big Rock Creek flowing in T 4 N, R 9 W, SBB&M, below its junction with Pallet Creek, such ownership, according to their assertion, having been established by decree of the Superior Court, County of Los Angeles, May 2, 1919. It describes itself as a non-profit, mutual water company, distributing waters of Big Rock

Creek to its shareholders and others. It alleges that the appropriations proposed under Applications 11222, 11223, and 11232 will reduce the amount of water available for such distribution and that the interests which it serves will be injured accordingly.

Llano Mutual Water Company asserts ownership of approximately one-third of the issued stock of Big Rock Mutual Water Company. By virtue of such ownership it claims to have received and to have distributed to shareholders and others approximately one-third of the surface flow of Big Rock Creek below its junction with Pallet Creek and in Section 6, T 4 N, R 9 W, SBB&M. It contends that the applicant's proposed diversions will reduce the available flow of water with resultant injury to the interests which it serves.

The applicant answers the protests against his applications by denying that his proposed appropriations will injure the protestants, asserting in that connection that the sources from which he proposes to divert dry up to an extent such that during irrigation seasons water from such sources does not enter or contribute to Pallet Creek or to Big Rock Creek. He asserts also that at all times there is unappropriated and surplus water flowing in Big Rock Creek which flows to waste in the desert.

HEARING HELD IN ACCORDANCE WITH THE WATER CODE

Applications 11222, 11223, and 11232 were completed in accordance with the Water Code and the Rules and Regulations of the Division of Water Resources and being protested, were set for public hearing under the provisions of Article 13, Section 733(a) of the California Administrative Code on Tuesday, February 3, 1948, at 10:00 A.M. in Room 803, California State Building, Los Angeles, California. Of this hear<sup>ing</sup>, the applicants and record protestants were duly notified.

### GENERAL DISCUSSION

Near the close of the hearing an understanding was reached that a field investigation would be made by an engineer of the Division for the purpose of securing additional information. Such an inspection was attempted on February 6, 1948, when a group assembled for the purpose, the group including Associate Hydraulic Engineer J. J. Heacock of the Division, Applicant Menning and Zanjero Coffeen of the Big Rock Mutual Water Company. However due to a heavy snowfall of the previous day it was impracticable to visit the places of use or the points of diversion of the various applications. In lieu of the investigation, therefore, a conference was held, the conference taking place at a bridge near the junction of Pallet and Big Rock Creeks. At the conference Mr. Coffeen stated that the protests probably would be withdrawn if the amount applied for in Application 11222 were to be reduced. Messrs. Coffeen and Menning were both familiar with the proposed place of use and agreed that probably not over 20 acres altogether within the SE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 13 and the NE $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 24 are readily irrigable.

Subsequent to the conference of February 6, 1948, negotiations between the parties resumed. These negotiations resulted in the submittal on December 6, 1948, of a document embodying on the one hand an amendment to Application 11222, reducing the amount named therein from 0.5 cubic foot per second to 0.1 cubic foot per second and amending the place of use of such water to read "Government Lot 1 in Section 13 and Government Lots 3 and 15 in Section 24 of T 4 N, R 10 W, SBB&M;" and on the other hand, in consideration of the amendment just mentioned, a withdrawal, by all of the protestants, of their protests against Applications 11222, as so amended, and of their protests against Applications 11223 and 11232. The amendment of the application and the withdrawal of the protests were both duly authenticated, and were accepted. In due course Application 11222 was annotated to accord with the amendment.

The records, while not conclusive quantitatively because of uncertainty as to channel losses between points of measurement and points of diversion, actual and proposed, nevertheless suggest that small surpluses probably exist. The withdrawal of all of the protests is a further indication that such surpluses exist; it is an indication also that their diversion, to the extent stated in the applications, will not interfere with the operations of lower users.

SUMMARY AND CONCLUSIONS

There are at times unappropriated waters in the sources from which the applicant proposes to appropriate, which may be taken and used without interference with vested rights. The uses to which the applicant proposes to put the waters upon which he has filed are beneficial uses and all protests against the applications have been withdrawn. The applications therefore should be approved and permits issued, subject to the usual terms and conditions.

ORDER

Applications 11222, 11223, and 11232 having been filed with the Division of Water Resources as above stated, protests having been filed, a public hearing having been held and the State Engineer now being fully informed in the premises:

IT IS HEREBY ORDERED that Applications 11222, 11223, and 11232 be approved and that permits 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 10<sup>th</sup> day of May, 1949.

  
Edward Hyatt, State Engineer

