

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

c0c

In the Matter of Application 12670 by Alfred C. Patton to Appropriate Water from Pallette Creek, Tributary to Big Rock Creek and from a certain Unnamed Spring and a certain Well Shaft, both Tributary to Pallette Creek in Los Angeles County for Domestic, Stockwatering and Irrigation Purposes.

o0o

Decision A. 12670 D. 670

Decided August 10, 1950

o0o

IN ATTENDANCE AT INVESTIGATION CONDUCTED BY THE DIVISION OF WATER RESOURCES AT THE SITE OF THE PROPOSED APPROPRIATION ON DECEMBER 8, 1949:

Alfred C. Patton

Applicant

Finley B. Laverty

Applicant's Engineer

C. V. Paul, Engineer and)

Representing the Protestants

John Turley, Ranch Manager)

J. J. Heacock

Associate Hydraulic Engineer,
Division of Water Resources,
Department of Public Works,
Representing the State Engineer.

o0o

OPINION

General Description of the Project

Application 12670 contemplates the appropriation of water, year round, from 3 sources as follows: 0.50 cubic foot per second from Pallette Creek at a point within the SW $\frac{1}{4}$ SW $\frac{1}{4}$, 0.003 cubic foot per

second from an unnamed spring within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ and 0.20 cubic foot per second from a well shaft also within the SE $\frac{1}{4}$ NW $\frac{1}{4}$, all of Section 23, T 4 N, R 10 W, S.B.B.&M. The water is wanted for domestic purposes, stock watering and irrigation. Water is to be diverted from Palette Creek by means of a rubble masonry and concrete dam 20 feet high and 50 feet long, from the Unnamed Spring by pumping and from the Well Shaft by gravity or pumping. From the points of diversion water is to be piped to the place of use which is described as being 65 acres in extent, lying within the W $\frac{1}{2}$ of the same Section 23 and including 10 acres of alfalfa, a 25 acre orchard, 5 acres of general crops and 25 acres of pasture. The irrigation season is said to extend throughout the year. A domestic supply is to be furnished to 2 families and upward of 100 head of livestock are to be watered. The project is to include a 10,000 gallon tank for regulation.

Protests

Big Rock Ranch Company protests the application, alleging that the proposed appropriation will prevent it from pumping the full amount allowed under its Permit 3213 and from receiving the full amount of surface flow to which it is entitled through ownership of shares of stock of both Big Rock Mutual Water Company and Llano Mutual Water Company. This protestant asserts ownership of a ranch, more than 1500 acres in extent, lying within Sections 6 and 8 of T 4 N, R 9 W and Sections 28, 29, 32 and 33 of T 5 N, R 9 W, S.B.B.&M., and riparian to Big Rock Creek. It asserts that upward of 200 acres of said ranch have been cultivated and irrigated exclusively from the surface and subterranean flow of Big Rock Creek, diverted therefrom in Section 6, T 4 N, R 9 W, S.B.B.&M. It also asserts ownership of 3 wells located in the streambed of Big

Rock Creek below the mouth of Pallet Creek and their operation under Application 5292, Permit 3213. Use is said to include domestic consumption and stockwatering as well as irrigation.

Big Rock Mutual Water Company, another protestant, asserts ownership of all surface waters of Big Rock Creek within T 4 N, R 9 W, S.B.B.&M. below the junction of that stream with Pallet Creek, through Superior Court Decree (Los Angeles County) entered on May 2, 1919. It claims to have continuously diverted and distributed all of the surface flow of Big Rock Creek available within that reach during each year to shareholders. It represents that the proposed appropriation will reduce correspondingly the amount of water available for that distribution.

Llano Mutual Water Company claims to own approximately one third of the issued stock of Big Rock Mutual Water Company and represents that it would be injured by the proposed appropriation in the same manner as set forth in the latter Company's protest.

In answer to the protests the applicant argues that the Superior Court decree mentioned in the Big Rock Mutual Water Company protest was a decree of dissolution of Big Rock Irrigation District and was not a determination of water rights; asserts that neither of the protestant water companies have filed applications to appropriate water; and that much of the land served by the water companies is non-riparian. The applicant's answer further sets forth that on May 15 (1949) the flow of Big Rock Creek above the east side and west side ditches was about 5 cubic feet per second, that the flow in the east side ditch was about 3 cubic feet per second, that neither of the pumps installed under Permit 3212 was connected to the east side ditch or appeared to have

been used for some time, that apparently no flow was entering Big Rock Creek from Pallett Creek and that the flow of Pallett Creek on the Patton property was 0.17 cubic foot per second. The applicant argues that Pallett Creek is not (ordinarily) tributary to Big Rock Creek, citing in that connection a report - "Geologic Features of the Antelope Valley" - by Warren N. Thayer, Geologist, Los Angeles County Flood Control District. He asserts that the principal water users from Pallett Creek Basin are well owners - owners whose pumping the protestants have apparently made no effort to deter; and that the water contributed to Big Rock Creek from Pallett Creek Basin is relatively minor and sometimes non-existent. He concludes in effect that the protests are based upon unsubstantial grounds and should not prevail.

Field Investigation

The parties having stipulated to an informal hearing as provided for in Section 833(b) of the California Administrative Code, a field investigation was conducted in the vicinity of the proposed appropriation on December 8, 1949 by an engineer of the Division. The applicant and the protestants were present or represented at the investigation.

Records Relied Upon

5292

Applications/11222 and 12670 and all data and information on file therewith.

Discussion

According to the U.S.G.S. Rock Creek Quadrangle, Rock Creek (sometimes called Big Rock Creek) and its tributary Pallett (sometimes called Pallet or Palette) Creek unite at a point within the SW $\frac{1}{4}$ of Section 6, T 4 N, R 9 W, S.B.B.&M. That map shows Rock Creek to be intermittent for some 2 miles above the junction mentioned as well as below the

junction, and Pallett Creek to be intermittent through most of its course from Applicant Patton's property to its junction with Rock Creek. A U.S.G.S. gage is installed on Rock Creek some 3.5 miles upstream from the junction and a 21 year record based thereon ("Rock Creek near Valyermo") shows surface flow as having averaged 16.7 cubic feet per second and having ranged from a minimum of 1.2 to a maximum of 8300 cubic feet per second. On Pallett Creek no record appears to have been kept and only a few scattered observations of flow are known. The watershed tributary to the Rock Creek gage is given as 23.0 square miles. The Pallett Creek watershed scales about 1.4 square miles above Applicant Patton's proposed point of diversion on that stream and about 16 square miles above its junction with Rock Creek. The watershed supplying the applicant's proposed diversions thus is very small as compared with that supplying the protestants.

The applicant's proposed point of diversion on Pallett Creek is some 5 miles above the junction of that stream with Rock Creek. In the upper half of that distance the channel falls nearly 1000 feet but in the lower half only about 400 feet. About one fourth of the 5 miles of channel mentioned is shown on the map as a sand wash. In view of these circumstances and of common knowledge as to the climate of the locality the summer flow of Pallett Creek may be supposed flashy after storms and rather insignificant at other times. This supposition is supported by the few observations at hand. As mentioned in an earlier paragraph the applicant reported no surface flow entering Rock Creek from Pallett Creek on May 15, 1949. According to testimony at a hearing in connection with Application 11222, Pallett Creek (at Rheinlander Crossing, 4.5 miles above mouth) was flowing 10 miner's inches on January 28, 1948.

Other testimony at the same hearing was to the effect that Pallett Creek for 2 miles above its mouth (its junction with Rock Creek) is a living stream and that from there on upstream it is ordinarily dry.

The application referred to in the protest by Big Rock Ranch Company is Application 5292, Permit 3212 (incorrectly cited as Permit 3213 in the protest). Under that approved application Big Rock Ranch Company is authorized to divert 5.0 cubic feet per second of underground waters of Big Rock Creek, year round, at a point within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 6, T 4 N, R 9 W, S.B.B.&M. for irrigation and domestic purposes. Progress reports pertaining to Application 5292 have not been submitted for years more recent than 1945. In the progress report for 1945 it is stated, "No pumping during past 12 mos. as there was ample surface flow to meet all irrigation requirements". The progress reports for 1944 and 1943 contained similar entries. The progress report for 1942 stated that pumping had been continuous during the irrigation season. The progress report for 1941 stated that no water had been used (under the application) during 1941, as the surface water supply was ample, but that in dry years it is necessary to pump continuously. Somewhat detailed information as to the project under Application 5292 is contained in a report of inspection of that project by Engineer J. J. Heacock on May 4, 1948. According to that report the capacity of installed pumping equipment is about 6.5 cubic feet per second, the pumps run practically constantly, irrigation normally extends from March 1 to October 31 but winter irrigation also has been necessary during recent dry years. The statements as to pumping for long periods, contained both in the progress reports and in the report of inspection give rise to the presumption that there is no shortage, present or immediately impending, of underground supply.

Should Application 12670 be denied, the water applied for would continue down Pallett Creek as at present, possibly being dissipated before reaching the lowermost 2 mile reach (where Pallett Creek is a living stream), possibly sinking to reappear within that reach. In view of the large watershed tributary to that reach, of which the watershed above Applicant Patton is a very small part it is considered unlikely that the approval of Application 12670 would affect the surface flow of Pallett Creek appreciably. Such runoff from the Pallett Creek watershed as does not surface in the reach referred to presumably continues underground to the junction of Rock Creek, there to merge with the underground flow of the latter stream and to continue on northerly to Mojave Desert, the combined underflow being more than sufficient to meet the requirements of any record protestant.

For reasons above stated it appears that there is water in upper Pallett Creek which may be taken and used in the manner proposed in the application without injury to the protestants. Application 12670 should therefore be approved and permit issued, subject to the usual terms and conditions.

oOo

ORDER

Application 12670 for a permit to appropriate water 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 12670 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 10th day of August 1950.



A. D. Edmonston
A. D. Edmonston
State Engineer.