

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 15420 by Webb W. Wilcox to appropriate
Water from an Unnamed Stream Tributary to North Fork Matilija River
in Ventura County for Domestic Purposes and Irrigation.

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Decision A. 15420 D. 807

Decided September 28, 1954

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In Attendance at Conference Conducted by the Division of Water
Resources at Wheeler Springs Post Office on February 16, 1954:

Webb W. Wilcox

Applicant

Kenneth P. Sheldon

Protestant

J. J. Heacock

Senior Hydraulic Engineer
Division of Water Resources
Department of Public Works
Representing the State Engineer

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OPINION

General Description of the Project

The application initiates an appropriation of 0.05 cubic foot per second, year-round, from an unnamed stream in Ventura County, tributary via North Fork Matilija River to Ventura River for domestic purposes and irrigation. Diversion is to be effected at a point within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 16, T5N R23W, SBB&M, by means of a concrete dam 4 feet high, 14 feet long. From the point of diversion the water is to be conducted through 1,050 lineal feet of 1 $\frac{1}{2}$ -inch pipe line which connects with the pipe line that serves the project under Application 12297. The water is to be used on a 5-acre tract lying partially within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 16, but mainly within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 21, T5N R23W, SBB&M. The tract is to be planted to general crops; it also contains cottages housing 40 guests and a cafe serving 200 patrons daily. The proposed use is to extend year-round. It is to be in conjunction with use under Application 12997.

Protest

The application is protested by one Kenneth P. Sheldon who states as the basis of his objection:

"I will be deprived of adequate domestic and irrigation water for my ranch as records show that there is not sufficient water in the North Fork during the summer months for both domestic and irrigation use. I am solely dependent upon the water in this creek for use on my ranch. Facts show that at times there is only one-third the amount of water in this creek that I require."

The protestant bases his claim of a right to the water from North Fork Matilija River upon a notice filed August 4, 1887, by C. H. Sheldon and duly entered in the water records of Ventura County. He states that his diversion heads at a point within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 28, T5N R23W, SBB&M. As to the extent of present and past use on his property he states:

"This stream has been the source of all irrigation water for my ranch since the original filing in 1887. Since stream measurements were started in the late 1920's I have used when available approximately 32 inches of water for the irrigation of 11 $\frac{1}{2}$ acres of oranges. I have used this water every month of the year but usually during the normal irrigation period from April until November or such time as the lack of rain requires. It is also used for domestic purposes at times."

Answer

The applicant answered the protest by letter dated December 22, 1953, the substance of his answer being contained in the following paragraph thereof which reads as follows:

"As I told you in my letter of December 11th I contacted Mr. Sheldon personally regarding my application and he stated that while he was not strongly opposed to the granting of the permit to me, he felt that he should allow the protest to go on through so as not to infer that he was neglecting his rights."

Field Investigation

The applicant and the protestant with the approval of the Department having stipulated to the submittal of the application and protest upon the official records of the Department, a conference with the parties was held at Wheeler Springs Post Office by an engineer of the Division on February 16, 1954. The applicant and the protestant both attended the conference in person.

Records Relied Upon

Applications 12297, 12388 and 15420 and all data and information on file therewith.

Information Secured by Field Conference

Extracts from the report covering the conference of February 16, 1954, are as follows:

"A conference was held at Wheeler Springs Post Office and as all parties were familiar with the area ... it was found unnecessary to make a field investigation."

"This application covers the same source as that covered in Revoked Application 12388 Permit 7910 by L. E. Needham. No work had been started by Needham toward developing the source."

"The source ... is from an unnamed stream in a narrow steep ravine that is tributary to the North Fork, from the north. The watershed above the proposed point of diversion comprises about one-half square mile of steep mountain side, broken by numerous outcrops of sedimentary rock. The watershed has a moderate covering of small brush, and the bottom of the ravine has a narrow band of oak, alder and sycamore trees. There are several exposures of bedrock between the proposed point of diversion, and the North Fork, and during the summer and fall months flow does not reach the stream. Average annual precipitation over the watershed is about 30 inches. Flow at the time of the investigation, 48 hours after a heavy rain, was about one-quarter cubic foot per second. Flow on July 27, 1949 was measured at about 12 gallons per minute, and ten gallons per minute on June 12, 1953."

"Protestant Sheldon diverts from the North Fork, approximately two miles down stream from the proposed point of diversion under this application.

"His diversion dam is of loose earth and stone, about 25 feet long by two feet high, and is replaced after each freshet in the stream. From the dam, three 12-foot lengths of ten inch metal irrigation pipe lead to the intake of about 3,000 feet of eight inch pipe of mixed concrete and steel sections. Irrigation use is made on about 12 acres of oranges

and avocados that are on a low bench of the Ventura River. The soil is loose and stony so duty is low, but return flow from irrigation is directly to surface or sub-surface flow of the river. Use of water has been made on the place since about 1890.

"Protestant claims 30 miners' inches ... or 270 gallons per minute. During the late summer of 1951, he had some shortage of supply, but normally has sufficient water. On a basis of one cubic foot per second for 80 acres his twelve acres would require about 7.5 inches, or one-quarter of his claimed amount."

"The applicant has a resort which includes a restaurant, store and cabins which will accommodate about 50 persons, also about one acre of scattered flower beds and shrubs is presently irrigated. He is presently constructing two additional cabins and preparing more ground for landscaping."

"The proposed appropriation is for supplemental water to that which is developed under Application 12297, Permit 7347. The capacity of the works under Permit 7347 is about 12 gallons per minute and the full amount has been beneficially used on present development so additional water is required for the further development"

"The protestant believes that the appropriation would not be detrimental to him, but he did not wish to withdraw his protest as it might be construed as an abandonment of a portion of his claimed right."

Information from Other Sources

Under Application 12297 Permit 7347 Webb W. Wildox is authorized to divert 0.05 cubic foot per second, year-round, from a source designated as White Rock Spring, tributary to Ventura River, at a point within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 21, T5N R23W, SBB&M, for the same purpose and for the same place of use as set forth in Application 15420. Application 12297 was protested by Rancho Ojai Mutual Water Company and by Kenneth P. Sheldon. According to information collected in arriving at

a decision in the matter of Application 12297, the supply subject to appropriation under that application was not a firm supply, supply had been deficient for numerous periods of from 1 to 6 months, supply during all months except September however exceeded demand on an average of at least one year in two, supply during September had exceeded demand almost that often, and supply was deemed of sufficient value as a partial supply to warrant approval of the application.

Under Application 12388 Permit 7910 L. F. Needham was authorized to divert 12 gallons per minute, year-round, from the same source that is now named in Application 15420, for domestic and recreational purposes at a place of use described as Wheeler's Hot Springs, located within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 16, T5N R23W, SBB&M. That application was protested by Kenneth P. Sheldon, Rancho Ojai Mutual Water Company, and Michel Etchart. Information collected during the investigation in connection with Application 12388, that is pertinent to Application 15420 is as follows:

"The source ... is an unnamed stream rather than a spring ... lying in a rather narrow steep ravine ... tributary to the North Fork The watershed above the proposed point of diversion comprises about one-half square mile of steep mountain side"

"The proposed point of diversion is immediately below the junction of 2 ravines where ... the water is brought to the surface by a transverse barrier of exposed rock There was surface flow from the proposed point of diversion to the North Fork ... abnormal for this time of year (July 27, 1949). A survey was made in January 1948 ... and flow ... was measured at 12 gallons per minute Between the point of diversion and the North Fork is a medium heavy growth of alders, sycamores, willows, brush and grasses with small patches of dense growth adjacent to the stream channel. Mr. Ramelli stated he was prepared to testify in Court that the flow from this spring in normal years did not reach the North Fork."

Application 12388 Permit 7910 was revoked December 7, 1953, at permittee's request. A report of inspection of the project thereunder on June 12, 1953, contains statements as follows:

"Flow in the stream was estimated to be about 10 gallons per minute."

"There has been no work done toward developing the project."

"Water from the source has not been used under the permit."

"It appears that the project has been abandoned and is subject to revocation."

By letter of November 10, 1953, Permittee Needham requested revocation of his permit, his letter stating among other things "Wheeler's Hot Springs was sold on May 1, 1953."

No applications other than Applications 12388 and 15420, to appropriate from the small stream under discussion, are of record.

Summary and Conclusion

Application 15420 initiates an appropriation of 0.05 cubic foot per second, year-round, from an unnamed stream tributary to North Fork Matilija River in Ventura County for the irrigation of 5 acres of general crops and for domestic use at a group of cottages accommodating 40 guests and a cafe serving 200 patrons per day. It is protested by one Kenneth P. Sheldon, who irrigates 11½ acres of oranges with water diverted from North Fork Matilija River at a point approximately 1.15 miles downstream from the applicant's proposed point of diversion. Some years before the filing of Application 15420 one L. E. Needham filed Application 12388 to

appropriate from the same source at the same point. Application 12388 was approved and, in due course, Permit 7910 was issued. However, on June 12, 1953, an inspection of the project indicated that nothing has been done toward its completion and after advice from Permittee Needham that the property upon which the water was to be used had been sold and that revocation of the permit was in order, the permit was revoked.

Investigation in connection with Application 12388 indicated that the flow of the source was 12 gallons per minute on an unstated day in January, 1948, 8 gallons per minute on July 27, 1949, and 10 gallons per minute on June 12, 1953, that the flow of the source in normal years does not reach the North Fork. Investigation in connection with Application 15420 on February 16, 1954 indicated that the flow of the same source was about 0.25 cubic foot per second on date of investigation (2 days after a heavy rain) and that it had measured 12 gallons per minute on July 27, 1949 and 10 gallons per minute on June 12, 1953.

No application is pending to appropriate from the unnamed stream under discussion except Application 15420.

In view of the revocation of Permit 7910, the non-existence of other applications to appropriate from the same unnamed stream and the report to the effect that the flow in that source does not extend to North Fork Matilija River, it is concluded that said flow is unappropriated, that it may be taken and used beneficially by the applicant without injury to downstream users and that the protest against the application is insufficient to bar its approval. It is the opinion of this office therefore,

for the reasons stated, that Application 15420 should be approved and permit issued, subject to the usual terms and conditions.

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ORDER

Application 15420 having been filed with the Division of Water Resources as above stated, protests having been filed, stipulations having been submitted, a field investigation having been conducted and the State Engineer now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 15420 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 28th day of September, 1954.



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