

BEFORE THE DIVISION OF WATER RIGHTS
Department of Public Works
State of California

IN THE MATTER OF APPLICATION No. 1602 of LIZZIE N. BONNER
FOR A PERMIT TO APPROPRIATE WATER FROM RADER CREEK, IN
MODOC COUNTY, FOR AGRICULTURAL PURPOSES.

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DECISION NO. A 1602 - D 13 A.
DECIDED July 21, 1924

APPEARANCES AT HEARING: May 6th, 1924

E. C. Bonner for applicant
Messrs. Robnett and Wylie for E. E. Woodruff, protestant
C. S. Baldwin for E. M. McCulley, protestant
D. B. Robnett for Robert Minto, W. F. Cockrell,
George M. and Mary P. Hudspeth, and
Frank J. Powers, protestants

NO APPEARANCE -- Harold Powers.

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Edward Hyatt, Jr., Acting Chief of Division of Water Rights.

O P I N I O N

On December 31, 1919, Daniel A. and Elizabeth W. Gloster filed their application No. 1602 for a permit to appropriate 5.0 cubic feet per second of unappropriated water from Rader Creek, in Modoc County, for agricultural purposes. Thereafter, said application was assigned to Lizzie N. Bonner, and protests were separately filed by W. F. Cockrell, E. M. McCulley and E. E. Woodruff. Joint protests were filed by Mary P. Hudspeth and Robert Minto and Frank J. and Harold Powers. In due course, the matter of this application came on for hearing before the Division of Water Rights.

It appears that Harold Powers has assigned all his interests in his protest to Frank J. Powers.. It is found that Harold Powers is no longer interested in the waters of Rader Creek.

The allegations of all protestants are similar. They claim the right to the use of all the water of Rader Creek and that they have used all of the flow of said creek during the irrigating season for many years prior to 1914 and that during the past twelve years there has been insufficient water to properly irrigate their lands.

Four measurements have been made of the flow of Rader Creek under the direction of this Division. The place of measurement was at the mouth of the canyon above all diversions. The results were, as follows:

<u>Date</u>	<u>Discharge- Cubic Feet per second</u>
October 19, 1920	0.5
March 20, 1921	2.5
July 19, 1921	10.0
May 25, 1922	29.8

The latter measurement was made during the midst of the high water season or period of melting snow in 1922, which was a year approximating average conditions of runoff in Modoc County. Records of gage heights kept by D. A. Gloster, during 1921 indicated that the period of melting snow extended from the first part of May to the first part of June during 1921.

It appears from the transcript of the hearing that the average period of high water during the season of melting snow has a duration of about six weeks with alternate freezes and thaws within the period. It is found that the freshet period usually extends from early in May to the latter part of June on Rader Creek and that the flow is subject to wide fluctuations with a maximum to be expected of approximately thirty cubic feet per second.

It appears from the transcript of the hearing that the total area

irrigated by protestants exclusively from Rader Creek was, approximately 1926 acres whenever there was sufficient water in said creek. In addition to this area, 200 acres are partially irrigated from Rader Creek by protestants. It is found that the total net area irrigated from Rader Creek by protestants approximates 2025 acres.

In addition to the claims of protestants, it appears that the applicant claims a right to 0.5 cubic feet per second from Rader Creek prior to this application No. 1602, by virtue of a court adjudication. This claim of applicant is still in dispute in the courts.

It was brought out at the hearing that Rader Creek had a well defined channel throughout its course down to Middle Lake, yet no one had observed water running down the channel into the Lake except during the Spring of 1890 and during one cloudburst since that time. The applicant contended however, that protestants diverted all the water on to their lands and allowed the water to waste from said lands into Middle Lake. It appears that there are numerous natural springs on the low lands of protestants near the lake bed and that no attempt was made by witnesses for applicant to distinguish between the natural springs discharging water perennially into said lake, and waste from excessive irrigation.

Taking into consideration the prior claims of applicant mentioned above, the acreage of protestants divided by the maximum amount of water to be expected as found above for the average high water season on Rader Creek indicates a diversion of water for use by protestants of one cubic foot per second to 68 acres. This is for average maximum conditions of flow to be expected. Taking into consideration the shortness of the high water season and the alternate freezes and thaws therein, it is obvious that the water supply is inadequate.

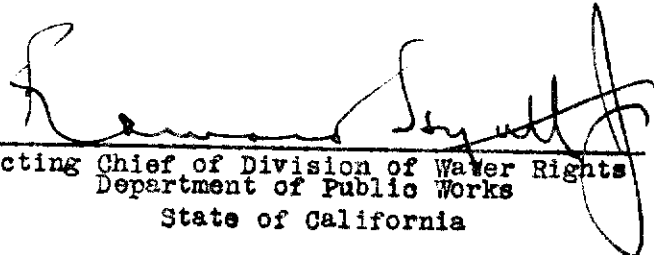
It is, therefore, concluded that there is an inadequate water supply available to justify issuance of a permit to the applicant.

ORDER

Application Number 1602 for a permit to appropriate water having been filed with the Division of Water Rights, as above stated, protests 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 permit be and the same is hereby refused on Application Number 1602 and that said application be and the same is hereby rejected.

Dated at Sacramento, this 21st day of July, 1924.



Acting Chief of Division of Water Rights
Department of Public Works
State of California