

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

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IN THE MATTER OF APPLICATION NUMBER 4213 OF ANTONE S.
de AVILLA TO APPROPRIATE FROM BEAVER CREEK, IN SISKIYOU
COUNTY FOR AGRICULTURAL PURPOSES.

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DECISION NO. 4213. D 69

Decided August 12, 1925

APPEARANCES AT HEARING HELD JUNE 11, 1925

For Applicant:

Antone S. de Avilla, in Propria
Persona.

For Protestants:

James D. Fairchild, Attorney at
Law, for Klamath Cooperative Ditch
Company.

James M. Allen, Attorney at Law,
for A. S. Calkins, Roy I. Tabor, and
I. P. Tabor.

Examiner:

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

IN ATTENDANCE:

Gordon Zander, Hydraulic Engineer,
Division of Water Rights.
I. M. Ingerson, Assistant Hydraulic
Engineer, Division of Water Rights.

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O P I N I O N

Application Number 4213 was filed on September 15, 1924, by Antone S.
de Avilla for an appropriation of 2.06 cubic feet per second from Beaver Creek
in Siskiyou County, with a season of diversion extending from April 1 to October
31 for the irrigation of 165 acres. This application was protested by the

Klamath Cooperative Ditch Company.

This application 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 at the City Hall in Yreka, at 1:30 o'clock P. M. on June 11, 1925. Of this hearing applicant and protestant were duly notified. In addition to the appearances at the hearing of the applicant and protestant of record, James M. Allen entered an appearance on behalf of A. S. Calkins, Roy I. Tabor, and I. P. Tabor as noted above.

Protestants A. S. Calkins, Roy I. Tabor and I. P. Tabor have succeeded to the lands and applications of Henry J. Barton on Beaver Creek. No objection was raised against this application by these protestants by virtue of the prior applications No. 1625 and No. 1626 for mining purposes. These protestants set forth riparian claims to 6 cubic feet per second for irrigation, power and resort purposes, as well as a prior appropriation of 0.75 cubic/under^{feet} application No. 2191. No use has ever been made of the water for power purposes up to present under the riparian claims of protestants. Protestants state that some water was diverted in 1924 for irrigation purposes under their riparian claims but it is not clear whether or not the same was applied to any beneficial use. The water that these protestants propose to use for power purposes will be available for diversion by the Klamath Cooperative Ditch Company. In accordance with Section 11 of the Water Commission Act, any water that has been available for the riparian claims of the protestants and which has never been put to any beneficial use is now subject to appropriation in accordance with the provisions of said Act.

The Klamath Cooperative Ditch Company set forth claims of rights to 6 cubic feet per second by virtue of appropriation and continued use for many years prior to 1914. This protestant claims an additional prior right to 4.69 cubic feet per second under Application No. 2226. The applicant admitted the prior rights of this protestant but contended that in years of normal flow there is considerable surplus water available for appropriation from Beaver Creek.

Four measurements of the total flow of Beaver Creek have been made under the direction of the Division with the following results:

<u>DATE</u>	<u>DISCHARGE</u> <u>CUBIC FEET PER SECOND</u>
Oct. 18, 1916	29.0
July 26, 1917	62.3
Aug. 25, 1924	13.5
June 9, 1925	181.6

The combined seasonal precipitation at Yreka and at Montague expressed in per cent of normal for the four years in which the above measurements were made is indicated in the following tabulation.

<u>Seasonal Year</u>	<u>Precipitation</u> <u>In Percent of Normal</u>
1914-15	109
1916-17	81
1923-24	50
1924-25	137

Neglecting the riparian claims to water of Messrs. Calkins and Tabor, that have never been put to beneficial use, the combined prior claims to rights of appropriation are indicated in the following table:

<u>Claimant</u>	<u>Cubic Feet per Second</u>
Klamath Cooperative Ditch Co.	10.69
Messrs. Calkins & Tabor	.75
A. S. de Avilla	1.00
Total	12.44

The above tabulations indicate that in an extreme dry year like 1924 in which the precipitation was about 50 percent of normal there is probably no unappropriated water during the latter part of the irrigating season; but during a year of normal precipitation there is evidently considerable unappropriated water available for the applicant throughout the irrigating season. The protestants admitted that there was an abundant water supply in Beaver Creek during years of normal runoff.

The total length of the de Avilla Ditch through which it is proposed to convey water under this application is approximately five miles. On August 27, 1924, with a total flow at the head of said ditch of 2.22 cubic feet per second the conveyance loss was about 86 percent. On June 9, 1925, with 2.58 cubic feet per second flowing in the ditch at its intake the conveyance loss was 43 percent. On account of the heavy conveyance losses applicant contended that if permit was issued, the place of measurement of the permitted amount should be located at a point near the entrance of the ditch into the proposed irrigated area. On account of the porous nature of the lands in this vicinity a small irrigating head of water cannot be used without excessive percolation losses.

It is therefore concluded that there is unappropriated water in sufficient quantity to warrant issuance of permit to applicant; that the place of measurement of the permitted amount of water should be located at the point where the main de Avilla Ditch enters the S2¹/₂ NE¹/₂ Sections 6, Tp. 46 N. R 8 W M. D. B. & M. or a point as near thereto as it is practical to make measurement. Reasonable conveyance losses between the intake of said ditch and said point of measurement should be allowed.

O R D E R

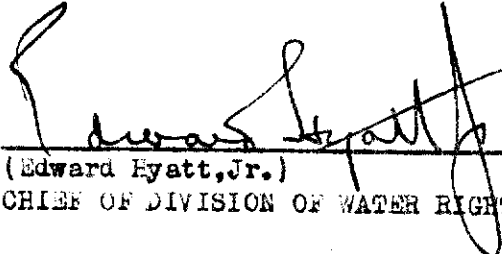
Application No. 4213 for permit to appropriate water having been filed with the Division of Water Rights as above stated, protests having been filed, a public hearing having been held, and the Division of Water Rights now being fully informed in the premises:

IT IS HEREBY ORDERED that said Application Number 4213 be approved and that a permit be granted applicant subject to such of the usual terms and conditions as may be appropriate and the following special terms and conditions, to wit:

"The place of measurement of the amount of water specified in this permit shall be the point where the main de Avilla Ditch enters the SE $\frac{1}{2}$ NW $\frac{1}{2}$ Section 6, Tp. 46 N. R 8 W. M. D. B. & M., or a point as near thereto as it is practical to make measurement. Reasonable conveyance losses between the intake of said ditch and said point of measurement are allowed. The amount of water necessary for said conveyance losses shall be determined by the Division of Water Rights in case of dispute."

Dated at Sacramento this twelfth day of August, 1925.

TRS:GG



(Edward Hyatt, Jr.)
CHIEF OF DIVISION OF WATER RIGHTS