

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

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In the matter of Applications 6398 and 6417 of Antone Avilla
to appropriate from Quaking Asp Gulch, a tributary of the
Pit River in Lassen County for stock watering purposes

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DECISION A 6398, 6417 D-281

Decided *January 28, 1931*

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APPEARANCES AT HEARING HELD AT SACRAMENTO, JANUARY 6, 1931

For Applicant

Antone Avilla

H. P. Andrews

For Protestants

W. N. Snider and E. W. Hatfield

No appearance

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EXAMINER: Everett N. Bryan, Hydraulic Engineer,
Division of Water Resources.

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O P I N I O N

GENERAL FEATURES OF THE APPLICATIONS

Application 6398 was filed on August 7, 1929, by Antone Avilla. It
proposes an appropriation of 33 acre feet per annum to be diverted to storage
throughout the entire year for stock watering purposes within the $S\frac{1}{2}$ of $SE\frac{1}{4}$
of Section 7, T 36 N, R 10 E, M.D.B. & M.

The point of proposed diversion is within the $SW\frac{1}{4}$ of $SE\frac{1}{4}$ of Section
7, T 36 N, R 10 E, M.D.B. & M.

The application was protested by W. N. Snider and E. W. Hatfield.

Application 6417 was filed on August 23, 1929, by Antone Avilla. It proposes an appropriation of 30 acre feet per annum to be diverted to storage throughout the entire year for stock watering purposes within the NE $\frac{1}{4}$ of NE $\frac{1}{4}$ and SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 13, T 36 N, R 9 E, M.D.B. & M. The point of diversion is within the SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 13, T 36 N, R 9 E, M.D.B. & M.

The application was protested by W. N. Snider and E. W. Hatfield by the filing of an affidavit just prior to the hearing.

PROTESTS

W. N. Snider and E. W. Hatfield object to the approval of the two applications on the grounds that it would "prevent the filling of a public water reserve known as Dillon Lake."

HEARING HELD IN ACCORDANCE WITH SECTION 1a OF THE WATER COMMISSION ACT

Applications 6398 and 6417 were completed in accordance with the Water Commission Act and the requirements of the Rules and Regulations of the Division of Water Resources and being protested were set for a public hearing in accordance with Section 1a of the Water Commission Act on January 6, 1931, at 10:00 o'clock A.M. in Room 401 Public Works Building, Sacramento, California. Of this hearing applicant and protestants were duly notified.

DISCUSSION

As this office was advised by the protestants that it would be impossible for them to attend the hearing even though it be held in Modoc County the convenience of the applicant and his attorney was best served by holding it in Sacramento.

Just prior to the hearing an affidavit by E. W. Hatfield was filed in this office with the understanding that it would be accepted on behalf of the protestants in lieu of an appearance at the hearing.

According to the affidavit there is a natural lake or reservoir situated in Sections 13 and 14, T 36 N, R 9 E, M.D.B. & M. (Dillon Lake) which extends over an area of approximately 160 acres and certain lands adjacent thereto have been reserved by the United States Government for the use of stock and sheep men for stock watering purposes. The protestants are among those who have enjoyed this privilege and they allege in effect that the approval of the applications would result in depriving the lake of one source of supply, thereby causing it to dry up during the summer months and preventing the use of lands adjacent thereto for grazing purposes.

Testimony presented at the hearing in behalf of the applicant, however, clearly indicated that the waters of Quaking Asp Gulch are not naturally tributary to Dillon Lake; that many years ago a ditch had been constructed through a small barrier and the waters of Quaking Asp Gulch had been conducted thereby into Dillon Lake; that this ditch had been abandoned some eight or nine years ago and that no water from Quaking Asp Gulch had since been used as a supply for Dillon Lake. The evidence presented in behalf of applicant was so complete and convincing with respect to the above matters and the affidavit of protestants so uncertain and equivocal that no conclusion can be reached other than that protestants have failed to establish any equitable claim in and to the waters of Quaking Asp Gulch, the source named in this application.

O R D E R

Applications 6398 and 6417 for permits to appropriate water having been filed with the Division of Water Resources as above stated, protests having been filed, a public hearing having been held and the Division of Water Resources now being fully informed in the premises:

IT IS HEREBY ORDERED that said Applications 6398 and 6417 be approved and that permits be issued thereon subject to the usual terms and conditions.

WITNESS my hand and the seal of the Department of Public Works of the State of California, this 28 day of January, 1931.

EDWARD HYATT, STATE ENGINEER

BY Harold Conkling
Deputy

