

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

In the matter of Application 9268 by H. V. Madden To appropriate
From Ohio Tunnel a tributary of Emigrant Ravine, Hangtown
Creek and South Fork American River in El Dorado
County.

Decision A 9268 D - 429

Decided: *Sept 30, 1938*

Appearances At Hearing Held September 20, 1938

For Applicant:

H. V. Madden in propria persona

For Protestant:

John Bisagno for Margherita Bisagno

None for L. T. and C. A. Butts.

EXAMINER:

Everett N. Bryan, Sup. Hydraulic Engineer for Harold Conkling
Deputy in Charge of Water Rights.

O P I N I O N

Under Application 9268 it is sought to appropriate 0.025 cubic feet
per second and 3 acre feet per annum from Ohio Tunnel, a tributary of South
Fork of American River via Emigrant Ravine and Hangtown Creek, for irrigation
purposes, the diversion to be made in Lot 2 of Section 4, Township 10 North,
Range 11 East, M.D.B. & M. The application was protested by Margherita
Bisagno and L. T. and C. A. Butts who are downstream owners diverting under
claim of prior appropriative right. The application having been completed
and being protested was scheduled for hearing in Room 401 Public Works Bldg.,

Sacramento with due notice to all record parties in interest.

Application 9268 is in effect an effort to reinstate Application 6680, Permit 3675, this permit having been revoked on January 29, 1934, upon the grounds of failure to comply with the terms and conditions thereof. This earlier application, likewise by H. V. Madden, was to appropriate 0.25 second foot and 2 acre feet per annum from Emigrant Ravine at a point also within Lot 2 of Section 4, Township 10 North, Range 11 East, M.D.B. & M. and was protested by L. T. Butts, William Bell Parker, Frank Bisagne and F. J. Raffeto. These protests were heard March 12, 1931 and it was the conclusion of the Division, after full opportunity for applicant and protestants to be heard, that the waters of this source were wholly appropriated during the irrigation season. The testimony introduced at the hearing on September 20, 1936, affords no basis for a different conclusion and in fact confirms to our previous conclusion. The direct diversion feature of Application 9268 should be denied as in the case of Application 6680 and the storage feature should be allowed with diversion season limited to the period from about November 1st to about April 1st only, likewise as in the case of Application 6680.

O R D E R

Application 9268 by H.V. Madden having been completed and duly noticed as prescribed by the Water Commission Act and the rules and regulations of the Division of Water Resources, said application being protested, and a hearing having been held upon said protests with due notice to record parties in interest, and the Division of Water Resources being now fully advised in the premises:

IT IS HEREBY ORDERED that said Application 9268 be denied insofar as diversion from May 1st to November 1st without storage is concerned, and

that the storage feature be allowed and permit issued in approval thereof subject to such of the usual terms and conditions as may be appropriate but with season of diversion limited to the period from about November 1st to about April 1st of each season.

WITNESS my hand and the seal of the Department of Public Works of the State of California this 30th day of Sept. 1938.

EDWARD HYATT, State Engineer

(Seal)

EMB:GG

BY HAROLD CONKLING

Deputy