

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

In The Matter of Application 9027 of A. L. Rigby To Appropriate  
Water From An Unnamed Gulch in the SW $\frac{1}{4}$  SW $\frac{1}{4}$  Sec. 16,  
Township 16 North, Range 17 West, M.D.B. & M.  
For Irrigation and Domestic Uses.

Decision A 9027 D 431

Decided *October 3, 1938.*

Appearances at Hearing Held at Ukiah August 23, 1938.

For Applicant	E. P. Dolder
For Protestant A. E. Johnson	A. E. Johnson in propria persona
For Protestant Frances Mary Woodhead	None

Examiner:

Everett N. Bryan, Supervising Hydraulic Engineer for Harold Genkling,  
Deputy in Charge of Water Rights.

O P I N I O N

Application 9027 is to appropriate from an unnamed gulch which is directly tributary to the Pacific Ocean in Mendocino County. It is sought to appropriate 7200 gallons per day for the irrigation of 10 acres and for domestic purposes, diversion and use to be made in the SW $\frac{1}{4}$  SW $\frac{1}{4}$  Sec. 16, Township 16 North, Range 17 West, M.D. B. & M.

The application was protested by Frances Mary Woodhead and A. E. Johnson upon the ground that the proposed appropriation would interfere with their rightful uses at points downstream. The matter was accordingly scheduled for hearing at Ukiah on August 23, 1938, of which hearing due notice was given to the parties in interest.

It would appear that although the source involved is a small unnamed gulch it carries an abundance of water during the winter and spring months for any uses presently contemplated. During the summer months however, the flow is greatly reduced and landowners downstream are concerned lest the applicant by this application establish some color of right which will interfere with their future development. On the day preceding the hearing, Mr. Dolder, who appeared for the applicant, measured the flow and reported 14,000 gallons per day on the Rigby property and 18,000 gallons per day on the property immediately below. Protestant A. E. Johnson within an hour or two after the Dolder measurements himself measured the flow immediately below applicant Rigby's lower line and reported approximately 8,640 gallons per day. The two measurements were made by the same volumetric method and the reason for the discrepancy is not clear.

Mr. Dolder estimated that the flow would decrease to some 2,000 gallons per day before the close of the current summer season and stated that it was his recollection that the lowest flow during the summer season of 1937 was approximately 6500 gallons per day.

Formerly water was used for stock purposes and possibly at a dairy on riparian land downstream from the Rigby property, but this dairy has not operated for some 5 or 6 years and the only use in recent years by diversion from the stream below the Rigby property has been at the farm home of protestant Woodhead. Protestant Johnson is not now making nor has he in the past made any diversion for his own use.

Apparently the former dairy property below applicant Rigby has been subdivided and is being offered for sale. It was a parcel of this land which protestant Woodhead acquired and another parcel was acquired by one Greenwood who has recently connected on to the Woodhead diversion line.

There are also other parcels already sold and to be sold. Mr. Johnson is the agent for this subdivision and it was he and his associates who constructed the diversion works now serving Mrs. Woodhead.

The use by Mrs. Woodhead is for domestic purposes, there being 4 or 5 in the family with a small ornamental garden. Apparently her deed included some assurance of a maximum of 1,000 gallons per day and we may therefore assume her use is under claim of riparian right. It is doubtful that she could beneficially use for the purposes described by witnesses called at the hearing an amount in excess of 500 to 600 gallons per day and there was uncontroverted evidence of waste at her regulating tank. While it is probable that riparian uses could rightfully at some future date claim the full normal summer flow of the source it is evident that presently the full normal flow is not in use and that surplus or unappropriated water is available for appropriation under Application 9027.

O R D E R

Application 9027 for a permit to appropriate water from an unnamed gulch in the SW $\frac{1}{4}$  SW $\frac{1}{4}$  Section 16, Township 16 North, Range 17 West, M.D.B. & M. having been filed with the Division of Water Resources as above stated, said application having been protested, a hearing upon said protests having been held after due notice to the parties in interest, and the Division of Water Resources being now fully advised in the premises,

IT IS HEREBY ORDERED that said Application 9027 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 *Third* day of *October* 1938.

EDWARD HYATT, State Engineer

By HAROLD CORLIAN

Deputy

(Seal)  
EHB:GO