

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

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In The Matter of Application 9311 of John P. Dodge
To Appropriate For Domestic Purposes From An
Unnamed Spring Tributary to Rock Creek
and Owens River in Mono County.

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DECISION 9311 D 437

Decided *December 15, 1938*

APPEARANCES AT HEARING HELD AT SACRAMENTO DECEMBER 6, 1938

For Applicant

None

None

For Protestant

None

None

EXAMINER: Everett N. Bryan, Supervising Hydraulic Engineer for Harold Conkling,
Deputy in Charge of Water Rights, Division of Water Resources, Depart-
ment of Public Works, State of California.

O P I N I O N

Application 9311 by John P. Dodge is to appropriate 200 gallons per day from a "small unnamed seep spring" tributary to Rock Creek and Owens River in Mono County for domestic purposes on Lot 1 of Aspen Park Tract of Inyo National Forest. An effort was made by D. G. Linn of 624 South Grand Avenue, San Pedro, to protest the application upon the ground that he had been using the water of this same spring since 1927 upon the adjoining Lot 2. The Department of Water and Power of the City of Los Angeles also protested upon the ground that the use proposed by the applicant would interfere with its right/ful use under prior Applications 531 and 3650 and as a riparian owner downstream.

Application 9311 having been completed in accordance with the provisions of the Water Commission Act and the Rules and Regulations of the Division

of Water Resources and being protested was scheduled for hearing at Sacramento, California, on December 6, 1938. Of this hearing applicant and protestants received due notice.

The only claim of right asserted by Mr. Zinn was his use since 1927 and inasmuch as this affords no sound basis of right in view of the provisions of Section 16 of the Water Commission Act he was advised that his protest was deemed incomplete and insufficient. He was not represented at the hearing.

It appears both from a reading of the application itself and the letters of Mr. Zinn that the source from which it is sought to appropriate is a seepage developed by Mr. Zinn, the applicant, and the predecessors of applicant residing upon Lot 1 and that the flow at best does not exceed 400 to 500 gallons per day. The map filed by applicant shows the point of diversion to be 450 feet from Rock Creek, the water in which is claimed by Protestant City of Los Angeles at a point more than two miles downstream. Applicant proposes to use the water at a point between the spring and where the natural inflow to Rock Creek, if there is any from the spring, would occur.

Under the circumstances and inasmuch as there was no appearance at the hearing on behalf of the City of Los Angeles, and the City made no effort to submit proof in support of its protest we are inclined to the view that this protest was filed for technical reasons only and that the proposed diversion could have no appreciable effect upon this protestant. The yield of such a small seepage situated so remote from Rock Creek could well be wholly dissipated by evaporation and transpiration, and if not thus wholly dissipated there is nothing to show that the contribution to Rock Creek would be diminished inasmuch as sewage waste will be discharged at a point between the spring and Rock Creek. The application should be approved.

O R D E R

Application 9311 having been completed as required by the Water Commission Act and the Rules and Regulations of the Division of Water Resources, being protested, a hearing upon said protests having been held with due notice to applicant and protestants and the Division of Water Resources being now fully advised in the premises,

NOW THEREFORE IT IS HEREBY ORDERED that Application 9311 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 15 day of Dec 1938.

EDWARD HYATT, State Engineer

By HAROLD CORNHILL
Deputy

(Seal)

ENB:m