

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

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In the Matter of Application 9553 of K.C. Wallace to appropriate
From a Spring in an Unnamed Stream Sometimes Known
as Miranda Canyon, Tributary to Gypsum River
in Santa Barbara County for Irriga-
tion and Domestic Purposes.

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DECISION A. 9553 D 446

DECIDED *October 25, 1939*

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APPEARANCES AT HEARING HELD IN SACRAMENTO, OCTOBER 18, 1939.

For Applicant

K. C. Wallace

No appearance

For Protestant

L. O. Fox

No appearance

EXAMINER: Harold Conkling, Deputy in Charge of Water Rights, Division of Water Resources, Department of Public Works, State of California.

OPINION

THE PROJECT

Application 9553 was filed by K. C. Wallace on April 10, 1939, to appropriate 0.025 cubic feet per second from a spring in an unnamed stream sometimes known as Miranda Canyon, at a point within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 14, T 11 N. R 30 W, S.B.N. & M., for domestic use and the irrigation of 1 acre, all within the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 13 of said township.

THE PROTEST

L. O. Fox of Santa Maria protested the application on the basis of License 1250 confirming rights of 0.025 cubic feet per second, initiated by

Application 3929 filed with the then Division of Water Rights to appropriate from the same spring. It was Mr. Fox's contention that at present and for the past few years there has not been sufficient water available to care for his rights and any new appropriation.

HEARINGS SET IN ACCORDANCE WITH
SEC. 1a OF THE WATER COMMISSION ACT

Application 9553 was completed in accordance with the Water Commission Act and the Rules and Regulations of the Division of Water Resources and being protested was set for public hearing at Sacramento, October 18, 1939. Of this hearing applicant and protestant were duly notified and advised that a representative of the Division would make a personal investigation of the physical features involved and take testimony on Saturday, September 30, 1939; and that personal appearance at the hearing would be unnecessary.

HISTORY

L. C. Fox has Application 3929 before the Division of Water Resources, to appropriate from an unnamed spring, rights under which have been confirmed by License 1250 for 0.025 cubic foot per second for irrigation and domestic purposes. E. C. Wallace has Application 4149 to appropriate 0.24 cubic foot per second from April 1 to October 1 for irrigation and domestic purposes from the same source and an additional source not involved in this discussion, and through the same pipe line. This application was approved by issuance of permit 2132. Construction and use were reported complete and an inspection was made May 13, 1938 to secure information on which to base issuance of license. It was found that only 1700 gallons per day had been used from the spring under discussion during a season specified in the permit extending from April 1 to October 1 of each season.

Desiring to secure a right to more water and over the entire year, Mr. Wallace filed Application 9553 and authorized revocation of Application 4149, Permit 2132 if and when Application 9553 were approved.

THE INVESTIGATION

The representative of the Division of Water Resources met Messrs. Fox and Wallace by agreement. Mr. Wallace submitted two affidavits reciting the history of the development and the controversy with Fox. These were certified and copies were given the latter. He submitted a copy of an agreement with Fox entered into in 1925 under which they were to share the water equally, and certain maps. He stated he would rest his case on these documents and would not attend the hearing.

Fox read the affidavits and made no objection of any moment but would not withdraw his protest. He admitted however that for considerable periods of time the pipe flowed to capacity which is calculated at 75,000 gallons per day approximately, and that in times of low flow he had always shared the water equally with Wallace until the summer of 1939 when difficulties arose.

Measured flow of the spring was approximately 370 gallons per day. From January 1 to May 15 the pipe was said to run to capacity, after which time the flow diminished to zero, one month before the investigation.

Fox's use in recent years has been confined to domestic use by one or two persons at the cabin, water for 6 to 8 horses and in some years a few cattle, with a more or less desultory irrigation of 1/2 acre of uncultivated burr clover, in all probably not exceeding 4500 gallons per day. Inasmuch as Fox admitted he has shared the low flow equally with Wallace for some years it appears that his right is still further reduced in the low flow period to considerably less than 4500 gallons per day.

DISCUSSION

It therefore appears that in a normal year there is some water at all times, and at times the full amount specified in the application is available, which may be appropriated without interfering with present rights.

Fox and Wallace were apprised of the conclusions of the Division of Water Resources by letter of October 6, 1939, to which Wallace did not reply. Fox replied by letter of October 11, 1939, making some further minor claims and statements but ended by saying "...your decision will be acceptable to me". The application should therefore be approved.

O R D E R

Application 9583 for a permit to appropriate water having been filed with the Division of Water Resources, a protest 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 Application 9583 be approved and that a permit be granted to the applicant subject to such 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 25 day of October, 1939.

EDWARD HYATT, State Engineer

(Seal)

By MAROLD CONKLING

Deputy