

In the Matter of Application 9714 of John Zwald to Appropriates
from Littlejohns Creek, a tributary of the San Joaquin
River in San Joaquin County for Irrigation
and Stockwatering Purposes

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Decision A. 9714 D. 454

Decided March 26, 1940

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Appearance Hearing Held at Stockton, California, February 27, 1940.

For Applicant

John Zwald

L. B. Rash

For Protestants

E. D. Wilkinson

Rutherford, Jacobs, Cavalero & Deitrich
by Richard W. Dickenson

Stanley D. Herbert

In propria persona

Sarah A. W. Groves, et al

No appearance

J.M. and Ruth M. Dummay

No appearance

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

OPINION

General Description of Project

Application 9714 of John Zwald was filed with the Division of Water
Resources on August 29, 1939. It proposes an appropriation of 0.25 of a cubic
foot per second from Littlejohns Creek, tributary of San Joaquin River in San
Joaquin County for irrigation and domestic (stockwatering) purposes. The water
for irrigation purposes is to be diverted from about March 1 to about November
15 of each season. Water for stockwatering purposes is to be used throughout
the entire year. The point of diversion is described as being within the SE $\frac{1}{4}$
of SE $\frac{1}{4}$ of Section 34, T 1 N, R 10 E, M.D.B.& M. The place of use is described
as follows:

11 acres within SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 34, T 1 N, R 10 E, M.D.B.& M.
8 acres within SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 34, T 1 N, R 10 E, M.D.B.& M.

19 acres total

Protests

E. D. Wilkinson owns two parcels of land which he claims are riparian to Littlejohns Creek; the upper parcel containing 320 acres is within the $\frac{SE}{4}$ of Section 31, T 1 N, R 10 E, M.D.B. & M., the lower parcel containing 669 acres is located within the $\frac{SE}{4}$ $\frac{SE}{4}$ of Section 22, the $\frac{W}{4}$ $\frac{SW}{4}$ of Section 23, the $\frac{NW}{4}$ $\frac{NW}{4}$ of Section 26 and the $\frac{NE}{4}$ of Section 27, T 1 N, R 9 E, M.D.B. & M. Mr. Wilkinson claims that for over 50 years water has been used for the watering of 300 head of stock during the spring, summer and fall months and that should Application 9714 be approved it would result in depriving him of water to which he is entitled by virtue of his "riparian rights and prior use."

Stanley D. Herbert claims that since 1912 he has pumped water from two wells which are supplied by seepage water from Littlejohns Creek at a rate of 1000 gallons per minute for the irrigation of 78 acres of land from April to November of each year. He alleges in effect that the proposed appropriation under Application 9714 would decrease supply now available to him and would lower the underground water level in his wells which are located in the $\frac{SW}{4}$ of Section 19, T 1 N, R 9 E, M.D.B. & M.

Sarah A.W. Groves and Sarah A.W. Groves, guardian of Joseph P. Groves, Incompetent, claims that for over 50 years stock have been watered from the creek but that no actual diversion has been made from the stream. She alleges in effect that should the appropriation proposed by applicant be allowed it would result in reducing the flow of water through the cattle range to such an extent as to destroy the ideal watering conditions which now exist. The cattle range containing 784 acres in Sections 25 and 36, T 1 N, R 9 E, is claimed to be riparian to Littlejohns Creek.

J.H. and Ruth Dunaway claim riparian rights to the waters of Littlejohns Creek. Three and one-half acres of walnut trees are subirrigated from the creek and water is used for stockwatering purposes. Their property is located within the $\frac{NE}{4}$ of $\frac{SE}{4}$ of Section 26, T 1 N, R 9 E, M.D.B. & M. No diversion is made from the creek. Protestants allege in effect that not only would the proposed appropriation result in depriving them of subirrigation of their lands and water for stock purposes but would result in injury to their wells for domestic and irrigation purposes.

Hearing Set in Accordance with Section 1a of the Water Commission Act.

Application 9714 was 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 was set for a public hearing in accordance with Section 1a of the Water Commission Act on Tuesday, February 27, 1940 at 10:00 o'clock a.m. in Supervisors Room, Court House, Stockton, California. Of this hearing applicant and protestants were duly notified.

General Discussion

The testimony presented at the hearing indicates that there are no surface diversions from Littlejohns Creek by the protestants below the proposed point of diversion and except for the watering of cattle from pools in the stream bed no use of the surface waters is made.

Mr. Herbert, the lower protestant, has a well which is 350 feet in depth and located about 100 yards from Littlejohns Creek. During the irrigation season he pumps water from this well at a rate of 650 gallons per minute for the irrigation of some 60 acres of land. This pumping only lowers the water surface about 10 feet in a dry year and the water table rises to approximately the same elevation each year. Mr. Herbert's property overlies the underground water basin of the San Joaquin Valley and it is not conceivable that the proposed diversion by the applicant will interfere with his underground water supply.

It is the opinion of the Division that the proposed appropriation of the applicant will not interfere appreciably with the use of water by the protestants and that Application 9714 should be approved.

ORDER

Application 9714 for a permit 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 Application 9714 be approved and that a permit be granted to the applicant subject to such usual terms and conditions as may be appropriated.

WITNESS my hand and the seal of the Department of Public Works of the State of California, this 26th day of March 1940.

EDWARD HYATT, State Engineer

By HAROLD CONKLING
Deputy

(Seal)
WES:m