

STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC WORKS
BEFORE THE STATE ENGINEER AND
CHIEF OF THE DIVISION OF WATER RESOURCES

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In the Matter of Application 12460 of James Phillip Butcher to
Appropriate Water from an Unnamed Stream Tributary to Sweetwater River in
San Diego County for Domestic Purposes.

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Decision A. 12450 D. 622

Decided October 13, 1949

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In Attendance at Investigation Conducted by the Division of Water Resources
at the Site of the Proposed Appropriation on May 4, 1949:

James Phillip Butcher

Applicant

Millie Lexa

Protestant

J. J. Heacock

Associate Hydraulic Engineer
Division of Water Resources
Department of Public Works,
representing the State Engineer.

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OPINION

General Description of the Project

Application 12460 was filed by James Phillip Butcher on April 5,
1948. It contemplates a diversion of 300 gallons per day from March 1 to
December 1 of each season, for domestic purposes. The source designated in
the application is an unnamed stream tributary to Spring Valley Creek and
thence to Sweetwater River. Diversion is proposed at a point within the SW¹/₄
NE¹/₄ of Section 20, T 16 S, R 1 W, S.B.B.&M. Diversion is to be effected by

means of a concrete dam 3 feet high by 26 feet long and a pump, 80 gallons per minute in capacity. The place of use lies adjacent to and within the same quarter quarter section as the diversion dam. On it are located one dwelling a small garden and some 50 fruit trees.

PROTEST

One protest, by Frank Lexa and Millie Lexa, was filed against the application. The Lexas who are downstream neighbors in the same quarter quarter section, represent that they are not receiving their quota of water as specified in their licensed Application 8851. They assert that the source in question yields a mere trickle during May, June and July and yields nothing during August and September. They attribute this situation to diversions by others, upstream. They apprehend that the proposed appropriation will make a bad situation worse. They state that their protest may be disregarded and dismissed if unlicensed upstream users are stopped from diverting so that they (the Lexas) may receive their claimed quota. To that end they request a field investigation.

The applicant answers the protest by asserting that according to his observation the flow of the source below the protestants' property is substantial and that their alleged insufficiency of supply may be due to a defect in their diversion works.

Field Investigation

The applicant and the protestants having stipulated to an informal hearing as provided for in Section 733(b) of the California Administrative Code, a field investigation was conducted at the site of the proposed appropriation on May 4, 1949 by an engineer of the Division. The applicant and the protestants were present or represented during that investigation.

Records Relied Upon

Application 12460 and all data and information on file therewith.

Discussion

Upon realization of the small amount of water that actually could be used by the applicant the protestants Lexa decided to withdraw their protest. Mr. Lexa was unable to be present during the field investigation because of illness. He withdrew his protest against Application 12460 by letter dated May 22, 1949. Mrs. Lexa was present during the field investigation, and signed a withdrawal of her protest at that time.

In view of the withdrawal of the protest no bar remains to the approval of the application which therefore should be approved, subject to the usual terms and conditions.

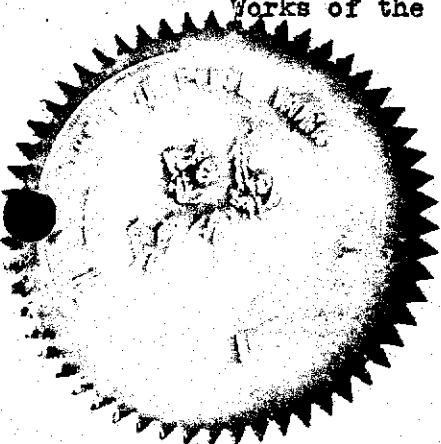
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ORDER

Application 12460 for a permit to appropriate water having been filed, a field investigation having been made, a stipulated hearing having been held in accordance with Article 733(b) of the Administrative Code and the State Engineer now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 12460 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 13th day of October, 1949.




Edward Hyatt, State Engineer