

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 12749 of Rodney and Jennie Siemiller to
Appropriate Water from an Unnamed Spring Tributary to West Carson River
in Alpine County for Domestic Purposes.

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Decision A. 12749 D. 647

Decided February 28, 1950

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OPINION

General Description of the Project

The project involves collecting water at a certain spring
within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 31, T 11 N, R 19 E, M.D.B.&M. and piping
it 310 feet to a cabin located within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 25, T 11 N,
R 18 E, M.D.B.&M. where it is to be used for domestic purposes to the
extent of 100 gallons per day from May 1 to September 1 of each season.
Diversion is to be effected by means of a wooden dam 1 foot high by 3
feet long. The pipe line is to be 1 inch in diameter, to fall a total
of 20 feet and to be capable of delivering 8 gallons per minute.

Protest

The H. F. Dangberg Land and Live Stock Company protests the
granting of the application claiming that there is not sufficient water
in the West Fork of the Carson River (to which the source filed upon is
tributary) to irrigate land which it is entitled to irrigate and to use

for watering live stock. It contends that each year during July and August the supply becomes deficient and that shortages extend into later months. It asserts ownership of large areas of land both in California and in Nevada and represents that it irrigates said land by waters of the West Fork of the Carson River and its tributaries and has so used water under both riparian and appropriative rights for over 75 years. It argues that it will be injured by the proposed appropriation which while small may set a precedent for other appropriations which in the aggregate will be serious.

The applicants answer the protest by stating that while shortages of water in West Fork of Carson River are conceded to exist, such shortages are compensated for by releases from Red Lake, that the applicants' place of use is accurately described and is privately owned, that the applicants are entitled as citizens to use water for domestic purposes, and that their proposed appropriation will not seriously affect the protestant as use under the application is contemplated only during one 3 week vacation period and during occasional week ends.

Field Investigation

Since Application 12749 presents the same situation that was involved in Applications 11568, 11711 and 11911 and the report of investigation of those applications contains adequate information as to the physical aspects of that situation, a field investigation in the matter of Application 12749 was deemed unnecessary and was not ordered. The applicants and the protestant stipulated to an informal hearing as provided for in Section 733(b) of the California Administrative Code thereby signifying their acquiescence in a submittal of the matter of Application 12749 and of the protests thereto for decision upon the official records of the Department.

Records Relied Upon

Applications 12749, 11568, 11711 and 11911 and all data and information on file therewith.

Discussion

The information of record clearly indicates that the protestant's California lands are upstream from the reach of West Fork of Carson River into which the spring filed upon may be supposed to drain. Such lands therefore are in no wise dependent upon the spring in question and the protest accordingly need no longer be considered insofar as such lands are concerned.

As to the protestant's Nevada lands which are located within Carson Valley some 20 miles downstream it is probable that little if any of the 100 gallons per day which the applicant seeks to appropriate would ever reach those lands, due to natural, unavoidable transportation losses through 20 miles of stream channel. Under the circumstances existing, the applicants' proposed diversion probably will have little or no effect upon the protestant's water supply. During July, August and September water supply is usually deficient and the entire flow of the river insofar as it originates in California, on alternate weeks, is allotted to and used by California water right owners. This is in accordance with the decree entered in the case of Anderson v. Bassman, Circuit Court of the United States, Ninth Circuit, Northern District of California. During half the time of deficiency therefore water diverted by the applicants in the manner proposed cannot injure the protestant at all. During the other half (the alternate weeks) the amount which the applicants propose to divert is insignificant as compared with the protestant's needs and would probably be lost to the protestant anyway in transit as already

stated and/or by diversion by intervening landowners who may exercise prior rights. During that half of the deficiency period therefore the injury if any to the protestant is theoretical, indeterminate and probably inappreciable.

In view of the above considerations the injury which the protestant alleges would result from the proposed appropriation appears too unsubstantial to operate as a bar to the approval of the application. It is concluded that the application should be approved and permit issued subject to the usual terms and conditions.

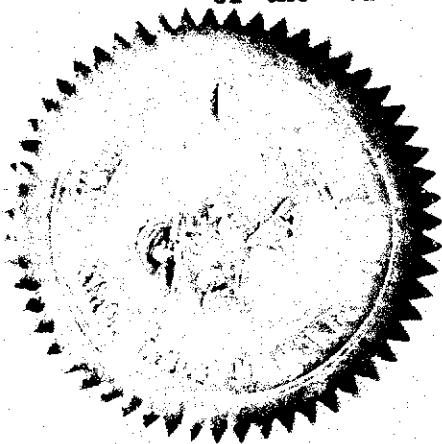
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ORDER

Application 12749 for a permit to appropriate water having been filed, a stipulated hearing having been held in accordance with Article 13, Section 733(b) of the Administrative Code and the State Engineer now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 12749 be approved and that a permit be issued to the applicants, 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 28th day of February, 1950.



A. D. Edmonston

A. D. Edmonston
State Engineer