

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

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IN THE MATTER OF APPLICATION NUMBER 3558 OF FRANK CHOPPING
FOR A PERMIT TO APPROPRIATE WATER FROM HIGH ROCK
CREEK, IN MODOC COUNTY, FOR AGRICULTURAL
PURPOSES

DECISION NO. A. 3558 - D 15 a
Decided July 21 , 1924

APPEARANCES AT HEARING, May 7, 1924:

Frank Chopping in propria persona

Messrs. Robnett and Wylie for E. B. Woodruff,
Jennie M. Cambron, Georgie Cambron Beeson,
Walter Cambron, Frankie Cambron Stevens, Ben
Cambron, Ruth Cambron and Mary Cambron, Protestants

Edward Hyatt, Jr., Acting Chief of Division of Water Rights

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O P I N I O N

On July 30, 1923, Frank Chopping filed his Application
Number 3558 for a permit to appropriate 0.37 cubic foot per second
of unappropriated water from High Rock Creek, in Modoc County for
use for agricultural purposes. Thereafter a joint protest by Jennie
M. Cambron, Georgie Cambron Beeson, Walter Cambron, Frankie Cambron
Stevens, Ben Cambron, Ruth Cambron and Mary Cambron and a separate
protest by E. B. Woodruff were filed. In due course the matter of
this application came on for hearing before the Division of Water
Rights.

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7-22-24

The applicant does not seek to appropriate water under his application during the freshet or flood flow of High Rock Creek, but desires a permit to divert the water during the late Spring after the flow ceases to reach the lands of protestants. The applicant alleged that his lands were situated upstream from the lands of protestants and due to large channel losses, water was normally available for his application after it ceased to reach lands of protestants. At the hearing the applicant brought forth the claim that approximately one cubic foot per second of the water of High Rock Creek reached his lands after said water ceased to reach the lands of protestants. This claim was not refuted.

It appears in the transcript of hearing that the applicant has been familiar with the conditions of flow of High Rock Creek for four years and four months. The applicant testified from his observations that the flow of High Rock Creek usually ceased to reach the lands of protestants on or about the first of June, but that due to certain waters of Eagle Creek being turned into High Rock Creek by protestants, the date, when the flow ceased at lands of protestants, was apt to occur later than the first of June. Regardless of the source of the waters flowing in High Rock Creek whether from natural flow or from Eagle Creek or both, the applicant did not dispute the right of protestants to the entire flow as long as same reached their lands.

The protestants testified that the period during which the applicant has observed the flow of High Rock Creek covered a series of extremely dry years and that normally the flow ceases to reach their lands about the first of July. There was no denial or refutation of the testimony of protestants regarding the flow of High Rock Creek prior to the four years and four months preceding the hearing. It appears that

the waters flowing in High Rock Creek including waters from foreign sources, normally cease to reach the lands of protestants on or about the first of July.

Application Number 3425 by A. L. Hotchkiss for a permit to appropriate one cubic foot per second of High Rock Creek waters has been approved and for a season of use from about July fourth to about October fifteenth. The point of diversion under Application Number 3425 is located approximately one mile upstream from that under Application Number 3558. Application Number 3425 is prior to Application Number 3558. After diversion is commenced under this prior application it is found that there is no water available for Mr. Chopping under the later Application Number 3558.

It is therefore concluded that there is an inadequate water supply available to justify the issuance of a permit to the applicant; and that it would be unreasonable and unwarranted to issue applicant a permit upon the ground that there might be water available in occasional years during periods of short duration.

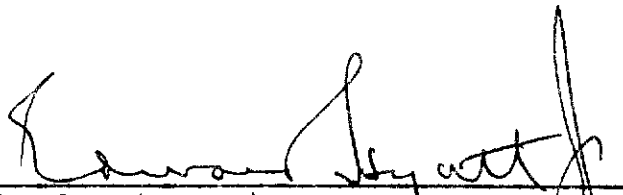
O R D E R

Application Number 3558 for a permit to appropriate water having been filed with the Division of Water Rights as above stated, protests having been filed, a public hearing having been held, briefs having been submitted, and the Division of Water Rights now being fully informed in the premises:

IT IS HEREBY ORDERED, that a permit be and same is hereby refused on Application Number 3558 and that said application be and

be and same is hereby rejected.

Dated at Sacramento, California, July 21 , 1924.



(Edward Hyatt, Jr.)
ACTING CHIEF OF DIVISION OF WATER RIGHTS
STATE DEPARTMENT OF PUBLIC WORKS