

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

-oOo-

IN THE MATTER OF APPLICATION 3083, BY THOMAS GALLAGHER, FOR A PERMIT
TO APPROPRIATE WATER FROM INDIAN SPRING AND CANYON, IN LOS ANGELES
COUNTY, FOR AGRICULTURAL PURPOSES.

DECISION NO. A-3083. D. 18
Decided August 6,, 1924.

APPEARANCES AT HEARING HELD MARCH 21, 1924:

F. B. Woodruff, Atty., and Thos. Gallagher, Applicant.

NO APPEARANCE:

Richard Dvorak and Joe Hutak, Protestants

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

-oOo-

O P I N I O N

On October 13, 1922, Thomas Gallagher filed his application Number 3083 for a permit to appropriate unappropriated water from Indian Spring and Canyon, in Los Angeles County, for use for agricultural purposes. Thereafter protests were separately filed by Richard Dvorak and Joe Hutak and in due course the matter came on for hearing before the Division of Water Rights.

Neither protestant appeared at the hearing, but have, since an answer to their protest was filed by the applicant, indicated that their objection to the appropriation is unchanged.

In this controversy the protestants' rights are clearly defined under Application 2442, Permit 967, License 316, and an order by the Chief of Division dated August 3, 1922, granting change in place of use. Under this application

and permit the protestants against Application 3083 have jointly acquired a right to appropriate 0.002 cubic foot per second for domestic use and have consummated the appropriation.

The application under consideration is to appropriate water at two points, one of which is above and the other below protestants' point of diversion. There is, therefore, no question of an adverse affect on protestants due to diversion from the lower point specified and protestants' objection is only to the upper diversion. Mr. Hutak, prior to the hearing, expressed his opinion that consummation of Mr. Gallagher's application would cut off the Dvorak-Hutak water supply altogether.

Reference is made to the first part of page 4 of the transcript. Applicant states his opinion that considerable water can be developed at the upper point of diversion. No reason has been submitted why such opinion is in error.

On page 8 of the transcript applicant's desire is shown as being to secure only such water from the source as will not interfere with protestants' rights and his intention is plain to arrange that protestants' rights may be satisfied before he avails himself of any of the water he may develop.

None of this testimony is, properly speaking, evidence but in the absence of any controversion thereof constitutes sufficient basis for the Division of Water Rights to approve the application subject, as usual, to vested rights.

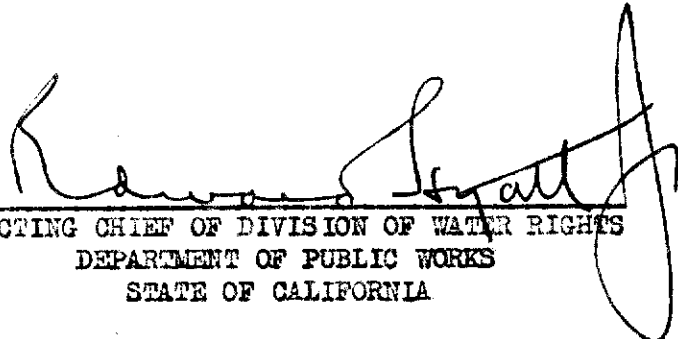
O R D E R

Application 3083 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 at which uncontroverted evidence was submitted to the effect that there is unappropriated water flowing in the source, and the Division of Water Rights now being fully informed in the premises:

IT IS HEREBY ORDERED, that Application No. 3083 be approved and that a permit be granted the applicant subject to such of the usual terms and conditions as may be appropriate.

Dated at Sacramento, California, this sixth day of August, 1924.



ACTING CHIEF OF DIVISION OF WATER RIGHTS
DEPARTMENT OF PUBLIC WORKS
STATE OF CALIFORNIA