

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

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In the Matter of Petition to Change Point of Diversion under Application Number 2868, Permit Number 1340 of Lew Sherwood to appropriate water from South Honcut Creek in Yuba County for Agricultural Purposes

DECISION NO. 2868. D 28
Decided October 18, 1924.

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APPEARANCES AT HEARING MARCH 22, 1924-

For Applicant:	Lew Sherwood, in propria persona
For Protestant:	Chas. B. Harris
Examiner:	Edward Hyatt, Jr., Acting Chief of the Division of Water Rights

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O P I N I O N

On June 6, 1922, Lew Sherwood filed his application No. 2868 for a permit to appropriate unappropriated water from South Honcut Creek, in Yuba County, for use for agriculture, the amount sought being 0.25 second feet to irrigate twenty acres of riparian land. A protest against approval of the application was filed by John B. Rogers. On March 17, 1923, the Division of Water Rights, after investigating claims of applicant and protestant both in the office and in the field, issued Permit Number 1340 on the application.

On January 9, 1924, applicant filed his petition to change his point of diversion to the point originally specified and an additional point approximately one-half mile downstream. Diversion from this additional point would be effected by pumping. This petition was regularly advertised, and on February 19, 1924, Mrs. C. P. McAlpine filed her protest thereto and in due course the matter came on for hearing before the Division of Water Rights.

From information now available protestant claims a vested right to use all of the water from the source but is willing to allow applicant to divert at the original point of diversion. It appears, however, that between the original point and the additional point accretions to the stream result in the availability of additional water at the lower point. Protestant's professed intention is to install a pipe line between the changed point, thus replacing an open ditch through which use has been made under riparian claim.

At the hearing petitioner made it plain that he desires to divert water at the additional point of diversion only during the months of July and August. It was further made definite that petitioner will limit his diversions from the additional point of diversion to one thousand (1,000) gallons per day.

Since the hearing petitioner with a full knowledge of protestant's claims in the matter has evidenced his intention to observe any rights which may be vested in protestant, and has agreed that he will cease diverting at the proposed new point of diversion whenever such diversion would interfere with use of water by protestant.

These concessions have been brought to protestant's attention but no statement of her attitude has been forthcoming. It appears, however, that a change in point of diversion under the conditions to which petitioner and permittee has agreed cannot result in injury to protestant.

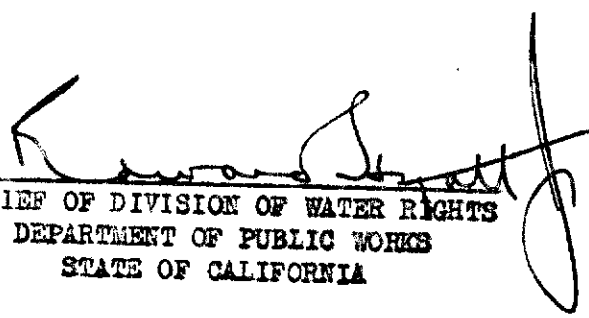
O R D E R

A petition for change in point of diversion under Application 2868, Permit 1340 having been filed with the Division of Water Rights as above stated, a protest having been filed, a public hearing having been held and the Division of Water Rights now being fully informed in the premises,

IT IS HEREBY ORDERED, that the petition of Lew Sherwood for change in point of diversion under Application 2868, Permit 1340 be approved subject to the following special conditions:

Diversions at the lower and new point of diversion shall be made only during the months of July and August and shall be limited to the amount which can be beneficially used and shall not exceed one thousand (1,000) gallons per day. Such diversions shall be further limited to such water as is available at the upper and original point of diversion.

Dated at Sacramento, California, this 18th day of October, 1924.


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

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