

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

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In the Matter of Application No. 4514 by Samuel
F. Akin for a Permit to Appropriate Water
from Cold Springs Branch in El Dorado
County for Irrigation and Domestic
Purposes.

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DECISION NO. 4514. D 127
Decided October 25, 1926.

APPEARANCES AT HEARING HELD SEPTEMBER 29, 1926.

For Applicant:

Charles F. Swisher, Attorney,
Bryte Bldg. Sacramento, Cal.

No Appearance:

Ira L. Schermerhorn.

Examiner:

Everett M. Bryan, Deputy Chief
of the Division of Water Rights.

O P I N I O N

On March 20, 1925 Samuel F. Akin filed his Application No. 4514 for a permit to appropriate 0.62 cubic feet per second, throughout the year from Cold Springs Branch a tributary of Webber Creek and American River for agricultural and domestic purposes on his 50 acre ranch in El Dorado County.

This application was completed in accordance with the Water Commission Act and the requirements of the Rules and Regulations of the Division of Water Rights and being protested was set for a public hearing in Room #707 Forum Building, Sacramento at 10:00 o'clock A.M. on Wednesday September 29, 1926. Of this hearing applicant and protestant were duly notified. No appearance was made by protestant nor has he submitted any

information which is opposed to evidence introduced by applicant tending to show that there is water in the source which is subject to appropriation.

Akin had previously filed his Application No. 3609 to appropriate from the same source which was denied by the Division of Water Rights after a hearing because it appeared that he would be unable to secure any right of way across Schermerhorn's land which would be crossed by the ditch proposed under Akin's former application. At the same time the Division of Water Rights approved Schermerhorn's Application No. 3572 to appropriate 0.125 cubic feet per second from the same source.

The situation with regard to rights of way is now reversed. The ditch proposed by Schermerhorn under his application and permit crosses the land of S.H. Rantz and both Schermerhorn and Rantz have advised this office that the necessary right of way has been denied. Schermerhorn has never diverted any water under his permit and it appears that he never can. It appeared at the hearing that the only use Schermerhorn makes of water from Cold Springs Branch is an inconsequential amount for stock watering purposes and that his main source of supply is an entirely separate stream. Available information is to the effect that there is more water in the stream during the period of low flow than Schermerhorn now uses.

Akin's application No. 4514 entails the use of a ditch across Rantz land and Rantz has granted Akin a right of way for the ditch which is now constructed.

From the above it appears that not only is there a greater flow than that heretofore diverted by protestant from the source; that there is slight probability that Schermerhorn will ever consummate his appropriation from the source and that the water he proposed to use will in due course

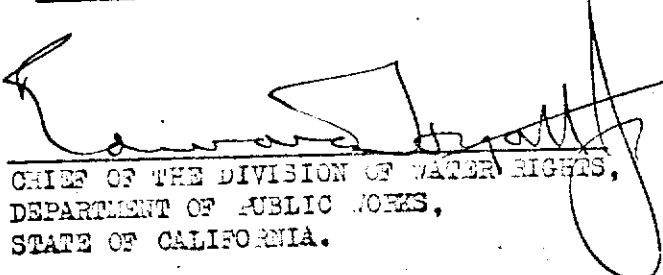
subject to appropriation: that Akin is in a position to use water under his application. No reason has been submitted sufficient to justify denial of the application.

O R D E R.

Application No. 4514 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, and the Division of Water Rights now being fully informed in the premises:

IT IS HEREBY ORDERED that said application No. 4514 be approved and that a permit be granted to the applicant subject to such of the usual terms and conditions as may be appropriate.

Dated at Sacramento this 25th day of October, 1926.


CHIEF OF THE DIVISION OF WATER RIGHTS,
DEPARTMENT OF PUBLIC WORKS,
STATE OF CALIFORNIA.

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JCF:R.