

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

In the Matter of ⁴⁸⁵⁴ Application Number 4845 of Nanette M.
Ostland to appropriate water from Bear Trap Creek
(Whiteside), tributary of South Fork of Trinity
River in Humboldt County, for irrigation and
domestic purposes.

Decision No. A 4854. D 132

Decided November 17, 1926.

Appearances at Hearing Held November 3, 1926:

For Applicant:

Nanette M. Ostland

No Appearance

For Protestant:

Daisy L. Whiteside

No Appearance

Examiner:

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

O P I N I O N

Application No. 4854 was filed December 2, 1925. It proposes an appropriation of 0.37 cubic feet per second of the waters of Bear Trap Creek (Whiteside) tributary to the South Fork of the Trinity River in Humboldt County, throughout the entire year for domestic purposes and for the irrigation of 30 acres of land in Section 1, T 5 N, R 5 E, Humboldt Base and Meridian. The irrigation season is from about April 1st to about December 1st of each year. The application was protested by Daisy L. Whiteside.

The 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 at 707 Forum Building, Sacramento, at 10:30 A.M. O'clock. Of this hearing, applicant and protestant were duly notified.

Miss Daisy L. Whiteside claims riparian rights to the waters of Bear Trap Creek and use of water from 1909 to the time of the death of her brothers, one having died in 1912, the date of the other's death being omitted in the protest, and alleges in effect that if the approval of the application would deprive her of the right to use water from the stream the use to which her property could be put would be greatly interfered with.

On October 20, 1926, Mrs. Nanette M. Ostland, the applicant, called at this office and after some discussion of the matter decided that no purpose could be served by making an appearance at the hearing, particularly as this office had been informed previously that no appearance was to be made on behalf of the protestant.

As no appearance was made on behalf of either the applicant or protestant this office can only act on the information which is before it.

From this information, it appears that at least eight years and perhaps ten to twelve years have elapsed since the protestant has used water from Bear Trap Creek, the place of use having been abandoned for some time due to a superstition prevalent among the people in that vicinity that the place was haunted, the two brothers of the protestant and an assistant having been murdered on the place, supposedly on account of mineral claims which they had acquired.

The area of land irrigated in the past probably did not exceed four or five acres.

Without attempting to pass upon the validity of protestant's claim of riparian right or the amount thereof it is sufficient to state that there appears a certain amount of water flowing past the proposed point of diversion of the applicant which is at the present time not being beneficially used and which protestant has no present plans to use and it would therefore appear to be subject to appropriation.

If the protestant has any rights on the stream the approval of the application would not interfere with those rights as the application would be approved subject to those rights.

O R D E R

Application No. 4854 for a permit to appropriate water having been filed with the Division of Water Rights as above stated, a protest having been received, 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 said application No. 4854 be approved for an amount of water not to exceed 0.37 cubic feet per second to be diverted from about April 1st to about December 1st of each year for irrigating purposes and throughout the remainder of the year as required for domestic purposes, 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, California, this seventeenth day of November, 1926.

(Edward Hyatt, Jr.)
CHIEF OF DIVISION OF WATER RIGHTS.

WES:R.
November 15, 1926.