

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

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In the Matter of Application 5180 of Islam Redwoods Shrine to appropriate from Pescadero Creek tributary of the Pacific Ocean, in San Mateo County for Irrigation of Golf Courses, Parks and Gardens and for Sprinkling and Maintaining Roads.

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DECISION A 5180 D 194
Decided June 13, 1928

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APPEARANCES AT HEARING HELD May 14, 1928

For Applicant

Islam Redwoods Shrine

Chas. A. Adams and
F. H. Tibbets

For Protestants

Margaret M. Dias, et al
Peninsula Farms Company, et al

Oliver Dibble
No appearance

EXAMINER: Everett H. Bryan, Deputy Chief, for Harold Conkling, Chief of Division of Water Rights, Department of Public Works, State of California.

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O P I N I O N

Application 5180 was filed August 30, 1926, by the Islam Redwoods Shrine. It proposes an appropriation of 500 acre feet per annum of the waters of Pescadero Creek, tributary to the Pacific Ocean in San Mateo County, the water to be diverted throughout the entire year to storage and to be used for the irrigation of golf courses, parks and gardens and for sprinkling and maintaining roads. The capacity of the reservoir is 234 acre feet. The area to be irrigated is 1,640 acres. The application was protested by

Margaret M. Dias, et al and by the Peninsula Farms Company, et al.

The protestants claim prior vested rights by virtue of appropriation and riparian ownership and allege in effect that the diversion of any of the waters of Pescadero Creek during the period from about May 1st to about November 1st of any year would deprive them of water for domestic and irrigation purposes and would result in irreparable damage to their crops.

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 10:00 o'clock a.m. on May 14, 1928, at Room 118 State Building, San Francisco. Of this hearing applicant and protestants were duly notified.

On August 26, 1928, a hearing was held on Application 4104 of the Islam Redwoods Shrine to appropriate 3 cubic feet per second from each of Evans, Slate and Peters Creeks, tributaries of Pescadero Creek in San Mateo County, above the point of diversion specified in Application 5180. The Peninsula Farms Company and Margaret M. Dias, et al protested this application and testimony presented at that hearing may properly be considered germane to this issue. Decision A 4104 D 125 was written to cover this case and reference thereto is made. It was our conclusion at that time that in ordinary years there was unappropriated water in the sources from which the applicant proposed to divert only from about November 1st to about June 15th of each season.

As no new evidence was introduced with respect to the season of unappropriated water at the hearing held on Application 5180 which would indicate that the period specified above should be changed, it would appear in order to limit the season of diversion under Application 5180 to that

named in the permit heretofore issued on Application 4104, i.e., the period from about November 1st to about June 15th of each season.

Paragraph 9 of Application 5120 originally indicated that the capacity of the storage dam would be 500 acre feet which was and is the amount applied for. After the application was received applicant amended Paragraph 9 to show an intended reservoir capacity of 234 acre feet only, but apparently forgot to change Paragraph 2b with respect to the amount to be appropriated. This matter was brought to the attention of Mr. F. H. Tibbets, engineer for the applicant after the close of the hearing and it was indicated to him that the Division would be reluctant to approve an application for an amount so grossly in excess of the reservoir capacity. Mr. Tibbets thereupon stated that approval of the application for 275 acre feet per annum only would be satisfactory.

At the hearing the protestants urged the necessity of the installation of measuring devices below and above the reservoir and for an opening through the base of the dam through which the normal flow of the creek might pass. We believe that this request of the protestants is a reasonable one and inasmuch as the regimen of the stream will be interfered with by the applicant the burden of installing these measuring devices and outlet should be upon the applicant.

CONCLUSION

The use to which the applicant proposes to put the water is a useful and beneficial one and there appears to be sufficient unappropriated water during the period from about November 1st to about June 15th to justify the approval of the application for an amount of water not to exceed 275 acre feet. The permit should however contain clauses to the effect that permittee shall install and maintain near the base of the storage dam an outlet control

of a minimum diameter of twelve inches and shall install and maintain suitable measuring devices above and below the storage reservoir such that it may be readily determined at any time in what amount water is being withdrawn from stream flow, such measuring devices to be of easy access to any interested party at all times.

ORDER

Application 5180 for a permit to appropriate water having been filed with the Division of Water Rights as above stated, protests 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 said Application 5180 be approved for an amount of water not to exceed 275 acre feet per annum to be collected to storage from about November 1st to about June 15th of each season and that a permit be granted to the applicant subject to such of the usual terms and conditions as may be appropriate and the following special terms and conditions to wit:

"Permittee shall install and maintain near the base of the storage dam an outlet control of a minimum diameter of twelve (12) inches.

"Permittee shall install and maintain suitable measuring devices above and below the storage reservoir such that deductions from normal stream flow during the irrigation season may be readily measured, said measuring devices to be of easy access to all interested parties.

Dated at Sacramento, California, this 13th day of June, 1928.

(Harold Conkling)
CHIEF OF DIVISION OF WATER RIGHTS

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