

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

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In the Matter of Application 5355 of the United States
Forest Service (San Bernardino National Forest) to
Appropriate from Minnelusa Spring Tributary to
Big Bear Lake in San Bernardino County for
Domestic Purposes

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DECISION A. 5355 D 198

Decided *June 21, 1928*

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APPEARANCES AT HEARING HELD March 8, 1928

For Applicant

United States Forest Service

H. P. Dechant

For Protestants

Mrs. Louis G. Scovern)
James F. McBryde)
Dr. H. C. Smith)

Eugene J. Wix

EXAMINER: Gordon Zander, Hydraulic Engineer 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

Description of Project

Application 5355 was filed by the United States Forest Service on
February 14, 1927. It proposes the appropriation of 0.006 cubic foot per
second from Minnelusa Spring tributary of Big Bear Lake in San Bernardino
County for domestic purposes on 35 lots in the Lakeview Tract to be used as
summer home sites. The lots are located in the SE₁, SE₂ of Section 8 and the
SW₁ of SW₁ of Section 9, T 2 N, R 1 E, S.B.B. & M. The point of diversion

is within the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 8, T 2 N, R 1 E, in the San Bernardino National Forest. The application was protested by Mrs. Louis G. Scovern, Dr. H. C. Smith and James F. McBryde.

Protests

Mrs. Louis G. Scovern, James F. McBryde and Dr. H. C. Smith have a right under Application 3450, Permit 1598 to divert 0.003 cubic foot per second or approximately 1950 gallons per day throughout the entire year for domestic purposes from a group of springs tributary to Big Bear Lake. The protestants allege in effect that their source of supply is Minnelusa Spring from which the applicant seeks to divert and that the approval of the application would jeopardize their rights inasmuch as during dry periods the supply would not be sufficient to take care of more than 4 or 5 lots and that during the summer of 1927 the supply was limited with none to spare.

Hearing Set in Accordance with Section 16 of the Water Commission Act

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 in accordance with Section 16 of the Water Commission Act at the Council Chamber of the City Hall, San Bernardino, California, at 10:00 o'clock a.m. on March 8, 1928. Of this hearing applicant and protestants were duly notified.

Physiography and Hydrography

Minnelusa Spring the source of the proposed diversion is a wet spot on the East side or bank of Minnelusa Canyon. The canyon itself rises in the mountains just North of Big Bear Lake in the vicinity of Bertha Peak and takes a Southwesterly course toward the lake. The drainage area above the spring has an area of about 0.80 of a square mile. The terrain is steep and well

wooded. Testimony presented at the hearing indicated that the banks of the canyon from a point well above the applicant's proposed source of diversion to a point below the protestants' point of diversion which is about 300 feet below that proposed by the applicant is saturated with water which percolates therefrom into the bed of the canyon itself, the stream being an increasing one as it flows toward the lake.

In the month of August 1927 measurements of flow were made and it was found that at a point 200 feet above protestants' intake the flow was 0.025 of a cubic foot per second or about 16,000 gallons per day, at a point 125 feet below protestants' intake it was 0.0628 of a cubic foot per second or about 40,500 gallons per day and at a point 400 feet below the intake the flow was 0.14 of a cubic foot per second or approximately 90,500 gallons per day.

The source of appropriation by protestants is a well sunk in the bed of Minnelusa Canyon about 300 feet below the applicant's proposed point of diversion and this well is so constructed as to collect underground waters only, the surface flow being allowed to pass on by. At this well the gravel bed of the canyon is about 20 feet wide and the well is sunk on the Westerly side of the channel.

Use of Water by Protestants

Under Application 3450, Permit 1598, Mrs. Louis G. Scovern, James F. McBryde and Dr. H. C. Smith have the right to divert a quantity of water not to exceed 0.003 of a cubic foot per second or approximately 1950 gallons per day for domestic purposes on lots 2, 3 and 5 of the Lakeview Tract. On July 30, 1926 an inspection was made of the project and according to the report of the inspecting engineer approximately 450 gallons per day was being

used for domestic purposes. This use however will probably be increased as it is proposed to install batns, flush toilets and septic tanks but it is not likely that more than about seven or eight hundred gallons per day will actually be applied to beneficial use.

Mr. William Hunter although not a record protestant, also uses water from the well of the protestants under Application 5049, Permit 2778, License 696, and has the right to divert 120 gallons per day throughout the entire year for domestic purposes on lot 1 of the Lakeview Tract.

The total use of the protestants is not likely to exceed 900 gallons per day.

Discussion of Protests

From the facts presented at the hearing and information on file with this office it appears that the spring from which the applicant proposes to divert is one of many moist spots on the sides of the canyon which contribute to the flow in Minnelusa Canyon. The flow at the spring is not great and water will have to be developed by the applicant. It may be possible that a certain amount of the water which the applicant intends to divert finds its way to the well of the protestants, as the well is so constructed as to collect under-ground water only, but ^{from} the fact that the walls of the canyon from the spring to the protestants' well appear to be saturated with water and there is a continuous stream of water flowing in the canyon itself which would appear to indicate that the gravels of the stream bed itself were saturated, it would not seem probable that the diversion of 0.006 of a cubic foot per second or approximately 3880 gallons per day as proposed by the applicant would in a year of normal runoff inure to the injury of the protestants.

Testimony introduced at the hearing indicated that during the dry year of 1926, Mrs. Scovern whose lot is situated at a lower elevation than those of the other protestants, was obliged to close the water taps at her cabin in order that the other protestants might obtain water. This fact however would not be conclusive evidence that the water supply was inadequate for it may have been possible that the water system was not designed to take care of this situation.

The fact that the walls of the canyon are saturated with water from the proposed diversion point of the applicant to the well of the protestants would appear to indicate that there would be sufficient water to supply the protestants even though the applicant should divert 3880 gallons per day from the Minnelusa Spring.

CONCLUSION

The purpose to which the applicant proposes to put the water is a useful and beneficial one and inasmuch as there appears to be unappropriated water at the proposed point of diversion permit should be issued.

ORDER

Application 5385 for a permit to appropriate water 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 said Application 5385 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, California, this 21 day of June, 1928.

Harold Conkling
(Harold Conkling)
CHIEF OF DIVISION OF WATER RIGHTS