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

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In the Matter of Application 5794 of Charles E. Ingraham to appropriate from Two Springs known as Frank M. Tickner Springs, Tributary to San Luis Rey River in San Diego County for Domestic and Irrigation Purposes.

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Decision A. 5794 D *234*

Decided *July 16, 1929*

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APPEARANCES AT HEARING HELD February 14, 1929.

For Applicant

Charles E. Ingraham

Harold A. McCabe

For Protestant

Charles A. Wruck

In propria persona

EXAMINER: Harold Conkling, Chief of the Division of Water Rights, Department of Public Works, State of California.

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O P I N I O N

GENERAL DESCRIPTION OF PROJECT

Application 5794 was filed by Charles E. Ingraham on January 7, 1928. It proposes an appropriation of 0.75 cubic foot per second from two springs, one of which is described as being within the NE₁ SW₁ of Section 25, and the other within the SE₁ SW₁ of Section 25, T 9 S, R 3 W, S.D.B. & M. It is proposed to divert the water throughout the entire year for domestic and irrigation purposes within the NW₁ of SW₁ and NE₁ of SW₁ of said Section 25. The application was protested jointly by Charles A. Wruck and his predecessor in interest Loring B. Haskell.

DESCRIPTION OF PROTEST

The protestants allege in effect that the water which applicant seeks to appropriate is from springs located upon the property formerly owned by Mr. Haskell and now owned by Charles A. Wruck; that Mr. Wruck has acquired the privilege of diverting all of the water from said springs by virtue of a right initiated by the filing of Application 4153 which was approved by this office by the issuance of Permit 2029, and that there is no unappropriated water in the sources from which applicant seeks to divert.

HEARING SET IN ACCORDANCE WITH SECTION 1a
OF THE WATER COMMISSION ACT

Application 5794 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 1a of the Water Commission Act on February 14, 1929, at 9:00 o'clock A.M. in the Supervisors Room of the Court House, San Diego, California. Of this hearing applicant and protestants were duly notified.

PRIOR RIGHTS OF PROTESTANT

On August 11, 1924, Loring B. Haskell filed Application 4152 with this office thereby initiating an appropriative right to divert from two unnamed springs within the SE₁ of SW₁ of Section 25, T 9 S, R 3 W, S.B.B. & M. for agricultural and domestic purposes. This application was approved on March 16, 1925, by the issuance of Permit 2029 which gave him the privilege of diverting an amount not to exceed 0.25 cubic foot per second from about May 1st to about November 1st of each season and throughout the year as required for domestic purposes. On December 15, 1925, this permit was assigned to protestant Charles A. Wruck.

LINE BETWEEN LANDS OF APPLICANT AND PROTESTANT ESTABLISHED

Mr. Ingraham under Application 5794 seeks to divert from the same two springs upon which Application 4152 was filed claiming that they were located upon his property.

From the testimony introduced at the hearing it appears that C. A. Wruck owns the $\frac{3}{4}$ of SW $\frac{1}{4}$ of Section 25, T 9 S, R 3 W, S.B.B. & M. and C. E. Ingraham owns the $\frac{1}{4}$ of said SW $\frac{1}{4}$ of Section 25. The line between the two properties being in dispute the applicant and protestant agreed to engage the services of a surveyor to establish the property line and to abide by his decision as to the correct location. This survey was made by C. L. Nichols who testified at the hearing that the two springs were located upon Mr. Wruck's property but that the property line passed through Mr. Ingraham's well which tapped the upper spring, more than $\frac{2}{3}$ of the well lying on Mr. Ingraham's property.

FIELD INVESTIGATION

On April 6, 1929, subsequent to the hearing a field investigation was made by an engineer of this office and from his observations it appears that the water in controversy is taken from excavations made in the bed of a small dry canyon which heads about $\frac{1}{2}$ mile northeasterly therefrom on Monserate Mountain. At the point where this canyon crosses the line between the Ingraham and Wruck properties a ledge of rock, overlaid with about two feet of sandstone comes to the surface and appears then to pass horizontally in a southerly direction under a small earth ridge to a tributary canyon about 100 feet distant. There is a rising outcropping of the ledge on the northerly side of the main canyon which evidently confines the underground flow on that side, but from all indications this ledge acts as a dyke to

the south with slightly lower points eroded in the beds of the canyons.

The Ingraham well is 4' x 6' x 9' deep penetrating the sandstone to bedrock. The well is covered with planking and surmounted by a one cylinder pump operated by a gasoline engine. Water is allowed to collect in this well for about 24 hours and is then pumped to a 5,000 gallon tank from which it is piped to a 0.2 acre garden. Water is also used at Mr. Ingraham's house for the domestic use of two persons, the irrigation of about 15 small trees and the watering of about 150 chickens. Due to engine troubles, absences, sickness, etc., it appears that diversions from the well have been more or less intermittent in the past. It also appears that more water is pumped from the well at the present time than has been pumped heretofore due to the fact that applicant has replaced a 15 inch pipe on the end of the suction which was partially rusted off when he took possession, thereby enabling him to lower the water in the well to a greater depth. At the time of the investigation the well was pumped dry after water had collected for 28 hours and measurement in the tank showed the yield to be 231 gallons.

The southeast part of Ingraham's well which is about $1/5$ of the whole extends over the property line, above referred to, onto protestant's land. Eight feet downstream from the lower edge of the well the bedrock drops 5.3 feet below the bottom of applicant's well and forms the head of Wruck's excavation designated as Spring A in Permit 2029 of Mr. Wruck, which excavation extends downstream along bedrock for a distance of 22 feet with a fall of 0.35 foot. The excavation is four feet wide and water seeps into it from both sides along the bedrock, none however passing over the exposed face of the ledge in line with the Ingraham well.

From the report by the engineer who investigated the project, it appears that Application 5794 in its present form covers both of the springs named in Application 4152, Permit 2029 of Mr. Wruck and that all of the available water has been put to beneficial use by Mr. Wruck with the exception of the amount which applicant has intermittently used from the well. The amount available is considerably less than the amount for which Mr. Wruck received permit. A measurement made 16 hours after the applicant's well had been drained indicated a diminution in the combined flow from protestant's two springs at the rate of 300 gallons per day and it appears probable that Wruck would be deprived of water to the extent of Ingraham's diversion.

PROTESTANT AGREES TO THE ISSUANCE
OF A CONDITIONAL PERMIT.

In order to avoid future trouble between himself and applicant Charles A. Wruck consented to the approval of Application 5794 provided that clauses be incorporated in any permit issued to the effect that:

1. Diversions under Application 5794 be limited to 231 gallons per day.
2. Diversions under Application 5794 be limited to Mr. Ingraham's well only.
3. Applicant will be prohibited from enlarging the well, blasting or otherwise interfering with the present flow towards protestant's points of diversion other than would result from the appropriation of the 231 gallons per day to which diversion under Application 5794 would be limited.

Under date of June 7th applicant was advised that apparently Mr. Wruck was willing to withdraw his protest to Application 5794 under the above conditions and if within fifteen days from date he would consent to have a permit issued subject to these conditions, this office would be in a position to approve Application 5794 for 231 gallons per day.

No reply to this letter has been received.

CONCLUSION

From the testimony introduced at the hearing and the report of an engineer of this office who investigated the project in the field, it appears entirely clear that there is no unappropriated water in the sources from which applicant seeks to divert and since the applicant is apparently unwilling to accept the conditions proposed by the protestant, it is the opinion of this office that Application 5794 should be rejected.

ORDER

Application 5794 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, a field investigation having been made by an engineer of this office and the Division of Water Rights now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 5794 be rejected and cancelled upon the records of this office.

Dated at Sacramento, California, this 16 day of July 1929.

Harold Conkling
HAROLD CONKLING
CHIEF OF DIVISION OF WATER RIGHTS.

WES:JR.