

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

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In the Matter of Application 6041 of William Winsell and
Application 6139 of Chris W. and Ebba W. Jeppeson
to appropriate from Chowchilla Creek, tributary
to San Joaquin River in Mariposa County for
Domestic Purposes.

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DECISION A. 6041, 6139 D - 250

Decided *March 3, 1930*

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APPEARANCES AT HEARING HELD IN MARIPOSA, JULY 30, 1929.

For Applicants

William Winsell	Louis T. Milburn
Chris W. and Ebba W. Jeppeson	Chris W. Jeppeson

For Protestants

William L. Harris)	C. W. McCray and
William and Edith Locke)	John Outcalt

EXAMINER: 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

General Description of Projects

Application 6041 was filed by William Winsell on September 1, 1928.

It proposes an appropriation of 500 gallons per day from Chowchilla Creek throughout the entire year for domestic purposes on twenty acres within the SE $\frac{1}{4}$ Lot 13 and SW $\frac{1}{4}$ Lot 14, Section 18, T 5 S, R 21 E, M.D.B. & M. The application states that 10 persons are to be served and less than one-half acre will be irrigated. The point of diversion is described as being within the

NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 18, T 5 S, R 21 E, M.D.B. & M.

Application 6139 was filed by Chris W. and Ebba W. Jeppason on December 14, 1928. As advertised it proposed an appropriation of 0.0156 cubic foot per second or approximately 10,000 gallons per day to be diverted from April 1st to November 15th of each season but was amended at the hearing to 0.0031 cubic foot per second or approximately 2,000 gallons per day. The water is to be used for domestic purposes for homesites on the NW $\frac{1}{4}$ Lot 14 Section 18, T 5 S, R 21 E, M.D.B. & M. The point of diversion is described as being within Lot 6 of Section 18, T 5 S, R 21 E, M.D.B. & M.

Both applications were protested by William and Edith Locke and William L. Harris.

Protests

Protestants claim rights by virtue of appropriation, riparian ownership and use and allege in effect that the proposed diversions, if approved, would deprive them of water during the irrigation season to which they are lawfully entitled.

Hearing Held in Accordance With Section 1a of the Water Commission Act

Applications 6041 and 6139 were 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 were set for public hearing in accordance with Section 1a of the Water Commission Act on July 30, 1929, at 10:00 o'clock A.M. in the Court House at Mariposa, California. Of this hearing applicants and protestants were duly notified.

Physiography and Hydrography

Chowchilla Creek, the source of the proposed appropriation has its origin in several large springs located on the southwesterly slope of Chowchilla Mountains, about two miles southeasterly of Devil Peak and about four miles southwesterly of the resort known as Wawona. From an elevation of 6,000 feet it flows southerly and southwesterly, a distance of eight or nine miles and unites with De Long Creek to form the East Fork of Chowchilla River. The creek flows through rather brushy country but the bed itself is practically in solid granite thereby rendering seepage losses a minimum.

The point of diversion proposed by applicant William Winsell is about 200 feet above the point where the Wawona road crosses Chowchilla Creek, at an elevation of approximately 5,200 feet and less than one-half mile from the source of the creek. From the Yosemite Quadrangle of the United States Geological Survey it appears that there is less than 100 acres of drainage area above this point and therefore it is apparent that applicant Winsell would be compelled to rely largely upon the flow of the springs for his supply. The same conclusion may be drawn as to applicant Jeppeson as his point of proposed diversion is about one-quarter of a mile below that of Applicant Winsell.

The upper diversion point of protestant Harris is about $2\frac{1}{2}$ or 3 miles below the proposed point of diversion of applicant Winsell at about elevation 3500. Above this point of diversion there are about seven square miles of watershed. The point of diversion of protestant Locke is about $4\frac{1}{2}$ or 5 miles below that of applicant Winsell at elevation 2500 and above this point there are approximately 13.3 square miles of watershed.

Between the proposed point of diversion of applicant Winsell and the point of diversion of protestant Locke there are three or four small

tributaries which contribute to the flow of Chowchilla Creek during the season of maximum runoff but which apparently are nearly dry during the irrigation season.

Prior Rights of Protestants

Protestant William L. Harris claims a right to 200 inches of water measured under a four inch pressure (4 c.f.s.) by virtue of a location made in 1871 by James M. Harris and recorded January 4, 1892, in Volume 1 of Water Rights at page 157 Mariposa County Records and a right to 150 inches of water measured under a four inch pressure (3 c.f.s.) by virtue of a location made in 1876 by James M. Harris and recorded January 4, 1892, in volume 1 of Water Rights at page 158 Mariposa County Records. Mr. Harris also claims rights by virtue of riparian ownership.

Of the 560 acres of land owned by protestant Harris testimony presented at the hearing indicated that about 75 acres had been irrigated in the past and are now irrigated when water is available although in the last few years not more than twenty acres have been irrigated due to a deficiency in the water supply. It appears also that some use has been made in the past for the purpose of operating a saw mill.

Protestant William Locke claims a right to 4,000 inches of water measured under a four inch pressure (80 c.f.s.) by virtue of a notice posted by one W. M. Barnett and recorded March 25, 1897 in Volume 1 of Water Rights at page 316 Mariposa County records.

Mr. Locke's ranch contains approximately 200 acres of which he claims about thirty acres have been irrigated. In his protest he states that the amount used has been approximately two miners inches.

Discussion of Protests

At the hearing it was admitted by both applicants and protestants that during a portion of the year there was unappropriated water in Chowchilla Creek. During the early spring months the runoff which flows down the creek is mainly from the melting snows but after about May 15th or June 1st the waters of Chowchilla Creek are fed principally from the springs at its head.

The testimony clearly indicates that from about July 1st to about October 15th the entire flow of Chowchilla Creek is used by protestants Harris and Locke and during the latter part of the season the only water which is available to Locke is the return water from the Harris Ranch.

An attempt was made by the applicants to show that at times water was available at the applicants' proposed points of diversion which was entirely lost by evaporation and seepage before it arrived at the Harris intake. The testimony presented at the hearing clearly indicated however that this condition only exists in extremely dry years and then only during the day time.

As the testimony was rather conflicting as to the probable loss between the Winsell proposed point of diversion and the Harris intake, measurements were made subsequently to the hearing by Mr. Warford, an engineer employed by both applicants and protestants.

A report submitted under date of August 31, 1929 by Mr. Warford shows certain measurements taken by him from which it appears that on the 6th and 7th of August, 1929, there were 12.5 or 15.6 miners inches at the proposed diversion point of Winsell and 8.28 inches at the Harris intake. Between these two points there were accretions amounting to about 0.6 inches.

This would indicate that the loss due to evaporation and seepage on August 6th and 7th was from 5 to 8 inches in a distance of $2\frac{1}{2}$ or 3 miles. From the character of the stream bed it is believed that most of the loss was due to evaporation.

On August 30, 1929, Mr. Warford found the flow in the Creek at the Harris intake to be 3.16 inches in the morning and 3.65 inches in the afternoon.

In a subsequent report Mr. Warford stated that Mr. Locke's ditch from his intake to the place of use was about one-half to three-quarters of a mile in length and that from an examination of the ditch it would appear no water had reached his place of use as recently as August 6th and 7th. Mr. Locke informed Mr. Warford that no water had been discharged at the end of the ditch since July 9, 1929.

We are convinced that in a year of normal runoff the water flows in a continuous stream from the applicants' proposed points of diversion to the Harris intake and that there is no unappropriated water in Chowchilla Creek during the period from about July 1st to about October 15th. It appears clear that the irrigation development of protestants has been limited by the available supply and that diversions as proposed by applicants will reduce the available supply in the summer and early fall months and thereby trespass upon the rights of protestants.

Conclusion

The purpose for which applicants propose to use the water is a beneficial one. While it appears there is normally a surplus of water available for appropriation in the early spring months and perhaps until as late as July 1st diversions after that during the irrigation season would reduce the amount available to protestants and to which they apparently have a well

established right. The applications may therefore be approved limiting the season of diversion so as to exclude the period from about July 1st to about October 15th.

O R D E R

Applications 6041 and 6139 for permits 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 Resources now being fully informed in the premises:

IT IS HEREBY ORDERED that Applications 6041 and 6139 be approved and that permits be issued thereon subject to the usual terms and conditions with the diversion season so limited as to exclude the period from about July 1st to about October 15th.

WITNESS my hand and the seal of the Department of Public Works of the State of California this 3rd day of March, 1930.

EDWARD HYATT, State Engineer

By Harold Conkling
Deputy

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