

G. J. Hill

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

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In the Matter of Application 6002 of the Montague Water
Conservation District to appropriate from Inconstance
Creek, in Siskiyou County, for Irrigation Purposes.

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DECISION A 6002 D 263

Decided *August 7, 1930*

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APPEARANCES AT HEARING HELD AT YREKA, MAY 7, 1930.

For Applicant

Montague Water Conservation District

Dr. G. W. Dwinnell) Directors
M. R. Prather)

For Protestants

F. J. Kathriner and
Allen M. Reed (successor to Orsy Marius)

Allen & McNamara, Attorneys

Mt. Shasta Development Company

No appearance

EXAMINER: Gordon Zander, Hydraulic Engineer, Division of Water Resources,
Department of Public Works, State of California.

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O P I N I O N

Application 6002 was filed August 6, 1928, by the Montague Water Conservation District for a permit to appropriate 50 cubic feet per second from Inconstance Creek in Siskiyou County, from April 1st to October 1st of each year, for use as a supplemental water supply for the irrigation of the 19,500 acres of land within said district. Protests were subsequently filed against the application by Orsy Marius, F. J. Kathriner and the Mt. Shasta Development Company.

PROTESTS

Orsy Marius claims riparian ownership on Inconstance Creek and a "right to use all of the waters of said creek that he may beneficially use for the purposes of irrigating his riparian lands". He claims to irrigate 50 acres and to have an additional 110 acres of land susceptible of irrigation.

F. J. Kathriner claims a riparian right on Inconstance Creek for 40 acres of land now under irrigation and for an additional 460 acres of land susceptible of irrigation.

The Mt. Shasta Development Company claims to own 80 acres of land riparian to Inconstance Creek, but does not definitely allege that any portion of said area has ever been irrigated.

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

Application 6002 was completed in accordance with the Water Commission Act and the requirements of the Rules and Regulations of the Division of Water Resources, and being protested was set for public hearing in accordance with Section 1a of the Water Commission Act on May 7, 1930, at 10:00 o'clock A.M. in the Council Chamber of the City Hall at Yreka, California. Applicant and protestants were duly notified of this hearing.

The hearing was held at the time and place specified, Hydraulic Engineer Gordon Zander of the Division of Water Resources presiding. Directors G. W. Dwinell and M. R. Prather appeared for the applicant and Allen and McNamara, attorneys, appeared for protestant F. J. Kathriner and for Allen M. Reed, successor to protestant Orsy Marius. No appearance was made for protestant Mt. Shasta Development Company. A. S. Wheeler, Assistant Hydraulic Engineer of the Division of Water Resources, was present at the hearing.

DISCUSSION

At the hearing, following a recess during which the representatives of applicant and protestants were in conference, Attorney McNamara made the following statement:

"May it please the Examiner, in the conference which was just had outside the record, it appears to the protestants that the point of diversion proposed by the Montague Water Conservation District is below their point of diversion. It further appears that any permit that will be granted the Montague Water Conservation District will be subject to existing rights, and that the two protestants are riparian to Inconstance Creek, and that they use water therefrom. With that understanding we feel that their rights would not be at all prejudiced, and we do not care at this time to go on with the protest, and desire that it may be dismissed by the stipulation as just stated." (Transcript: page 3, line 23 to page 4, line 9.)

Dr. Dwinnell then stated on behalf of the applicant that its representatives agreed with the facts as stated by Attorney McNamara. (Transcript: page 4, line 15.)

Protestant Mt. Shasta Development Company did not definitely allege in its protest that it was using or had used any water from Inconstance Creek; nor did said protestant appear at the hearing to submit any evidence in support of its protest. Accordingly, the protest of this company will be disregarded.

ORDER

Application 6002 for a permit to appropriate water having been filed with the Division of Water Resources 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:

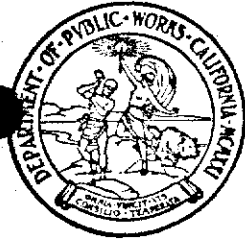
IT IS HEREBY ORDERED that said Application 6002 be approved and that a permit be granted to the applicant subject to such of the usual terms and conditions as may be appropriate.

WITNESS my hand and the seal of the Department of Public Works of the State of California this 7th day of August, 1930.

EDWARD HYATT, State Engineer

BY Harold Conkling
Deputy

GZ:MP



STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC WORKS
DIVISION OF WATER RESOURCES
ORDER

Decision # 262

APPLICATION 4882 PERMIT _____ LICENSE _____

ORDER SUPPLEMENTING DECISION A 4048,
5083, 4882 - D 232

WHEREAS by order of June 25, 1930, action has been withheld on Application 4882 waiting upon developments under Applications 4048 and 5083 of the City of Monrovia, and

WHEREAS said City of Monrovia has not fully developed and utilized the surplus or unappropriated water of Sawpit Canyon as proposed under said Applications 4048 and 5083 and doubt exists that the said City of Monrovia will in the future fully develop and utilize the surplus or unappropriated waters of said Sawpit Canyon under its said applications,

NOW THEREFORE IT IS HEREBY ORDERED that Application 4882 be approved and that a permit be granted to the applicant subject to such of the usual terms and conditions as may be appropriate.

WITNESS my hand and the seal of the Department of Public Works of the State of California this 6th day of July, 1935.

EDWARD HYATT, State Engineer

By Harold Carlsberg
Deputy

ENB:CG