

BEFORE THE DIVISION OF WATER RESOURCES
DEPARTMENT OF PUBLIC WORKS

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In The Matter of Application 9166 of Sinclair Baker To
Appropriate Water From Sheep Ravine, a tributary of
Cedar Ravine, Slate Creek and Yuba River
In Sierra County for Mining Purposes

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Decision A 9166 D 440

Decided April 10, 1939

APPEARANCES AT HEARING HELD AT SACRAMENTO ON APRIL 3, 1939

For Applicant

No appearance

For Protestants

Loftus Blue Lead Mines Company

James Kelly

Lewis F. Johnson and A.J. Sells

Lewis F. Johnson

EXAMINER: Harold Conkling, Deputy in Charge of Water Rights, Division of Water Resources, Department of Public Works, State of California.

O P I N I O N

Application 9166 by Sinclair Baker is to appropriate 1.5 cubic feet per second from Sheep Ravine, a tributary of Cedar Ravine, Slate Creek and Yuba River in Sierra County, for mining purposes, the diversion to be made in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 7, T 21 N, R 10 E, M.D.B. & M., and the use to be made on the "Clarice V" mining claim in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 7.

Loftus Blue Lead Mines Company protested upon the ground that the proposed diversion would occur upon and diversion would be made across Loftus #7 mining claim of that company and the intended use would interfere with their own use under a right by appropriation initiated in 1857 and since maintained.

Lewis F. Johnson and A. J. Sells protested upon the ground that a diversion already being used by the applicant as proposed under his Application 9166 was by-passing their own intake under Application 9018, Permit 4253 of

this office and interfering with their rightful use under said application and permit. They asserted and applicant himself admitted in a letter to them under date of December 19, 1938, copy of which letter he forwarded to this office, that he returned the water after use to Coarse Gold Ravine which is tributary to Cedar Grove Ravine below the diversion point of Johnson and Sells.

In reply to the Johnson and Sells protest, applicant undertook to show that protestants were confused and that in fact their diversion was made from Cedar Grove Ravine at a point above the confluence of that stream with Sheep Ravine from which applicant was seeking to appropriate. In support of this view, he forwarded a sketch map prepared by himself but this map does not agree with the map of their project prepared for Johnson and Sells by a licensed surveyor, which last named map would appear to agree with maps of the U. S. Geological Survey and the U. S. Forest Service.

Although given due notice, applicant did not appear at the hearing on April 3 and he has failed to show good cause for not appearing. Protestants appeared, however, and offered to have a survey made of the whole project as soon as the snow cleared but they were advised that inasmuch as applicant had failed to appear in support of his application this would be unnecessary.

Based upon the record before us we conclude that applicant lacks right of access and that the appropriation which he proposes would interfere with rightful use of Johnson and Sells under their earlier priority and possibly also with the rightful use of Loftus Blue Lead Mines Company under an appropriation antedating the Water Commission Act. Application 9166 should therefore be denied.

O R D E R

Application 9166 for a permit to appropriate from Sheep Ravine in Sierra County for mining purposes having been filed with the Division of Water

Resources as above stated, said application having been protested, a hearing upon said protests having been held after due notice to the parties in interest and the Division of Water Resources being now fully advised in the premises,

IT IS HEREBY ORDERED that said Application 9166 be denied and the said application be cancelled upon the records of the Division without prejudice.

WITNESS my hand and the seal of the Department of Public Works of the State of California this *10th* day of *April* 1939.

EDWARD HYATT, State Engineer

By MAROLD CONKLING

Deputy

(Seal)

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