

Before the Division of Water Resources
Department of Public Works
State of California

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In the Matter of Application 10100 of John S. Stohr
to Appropriate from Cedar Creek Tributary
to Poso Creek in Kern County for
Mining and Domestic Purposes

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Decision A. 10100 D. 486

Decided *January 5, 1942*

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APPEARANCES AT HEARING HELD AT SACRAMENTO ON DECEMBER 9, 1941

For Applicant

No appearance

For Protestants

No appearance

Examiner: Harold Conkling, Deputy State Engineer in charge of Water Rights,
Division of Water Resources, Department of Public Works, State
of California.

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O P I N I O N

General Description of Project

Application 10100 was filed by John S. Stohr on January 14, 1941.

It proposes an appropriation of 0.055 cubic foot per second to be diverted from Cedar Creek at a point within the SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 19, T 25 S, R 32 E, M.D.B.M. throughout the entire year for mining and domestic purposes within the NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 19, T 25 S, R 32 E, M.D.B.M. The name of the mining property to be served is the Buckhorn Mine. After use for mining purposes the water is to be returned to Cedar Creek at a point within the SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 19, T 25 S, R 32 E, M.D.B.M.

Protests

O. H. Klein claims an appropriative right initiated prior to the effective date of the Water Commission Act to an amount of water sufficient to irrigate 10 acres of alfalfa from about April 1 to about November 1 of each season and to water 400 head of cattle. His point of diversion is approximately 7 miles below the proposed point of diversion of the applicant. Mr. Klein alleges in effect that should Application 10100 be approved it would result in causing a shortage of water for irrigation and stock watering purposes from about July 15 to about November 1 of each season.

Edna Elden Williams and Will Williams claim a riparian right to the use of water from Cedar Creek for stock watering purposes. Approximately 60 head of stock are watered. These protestants allege in effect that not only would the proposed appropriation of the applicant result in depriving them of their entire water supply during some seasons, but would cause the water remaining in the stream during other seasons to become muddy, dirty and full of chemicals and physical impurities, thereby preventing any use of the water below. Protestants' point of diversion is located approximately 8 miles below the proposed point of diversion of the applicant.

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

Application 10100 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 on Tuesday December 9, 1941 at 10:00 o'clock A.M. in Room 401 Public Works Building, Sacramento, California. Of this hearing applicant and protestants were duly notified.

General Discussion .

On September 30, 1941 a field investigation was made by an engineer of this office who reported that although notices of the proposed investigation had been sent to all of the interested parties only protestants Will and Edna Williams were present. He also reported that according to information obtained locally the applicant had become insolvent, and had abandoned the project.

Under date of November 18, 1941, Mr. Stohr was informed of the results of the investigation and it was suggested to him that if he had no present plans of proceeding with the project that Application 10100 be withdrawn. No reply to this letter was received and the matter was set for public hearing.

The attorneys for protestants Williams informed the Division under date of December 1, 1941 that they did not feel it necessary for their clients to be present at the hearing and would rest their case upon the evidence on file with this office.

Mr. Stohr was informed of the protestants' decision and it was suggested to him that if he had no additional evidence to present other than what was already in our records there would be no necessity for his appearance at the hearing. No reply to this letter was received.

Conclusion

It appears from the information before this office that the applicant's proposed project has been abandoned and it is the opinion of the Division that Application 10100 be rejected and cancelled upon the records of this office.

O R D E R

Application 10100 for a permit to appropriate from Cedar Creek having been filed with the Division of Water Resources as above stated,

protests having been received, a public hearing having been held, and the Division of Water Resources now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 10100 be rejected and cancelled upon the records of the Division of Water Resources without prejudice.

WITNESS my hand and the seal of the Department of Public Works of the State of California, this *5th* day of *Jan.* 194*2*

EDWARD HYATT, STATE ENGINEER

BY *Harold Conkling*
Deputy State Engineer

