

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

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In the Matter of Application 10656 of John D. Richards to  
Appropriate Seepage Water Tributary to Cajon Canyon  
in San Bernardino County for Domestic Purposes

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Decision A. 10656 D. 514

Decided *October 4, 1944*

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APPEARANCES AT INVESTIGATION CONDUCTED AT THE SITE OF THE PROPOSED  
APPROPRIATION ON AUGUST 9, 1944

For Applicant

John D. Richards

No appearance

For Protestants

Michele and Bettina Gazzera

J.R. Cavallo

For Interested Party

Angelo Peroglio

In propria persona

For Division of Water Resources

Biscoe Kibbey, Associate Hydraulic Engineer for Harold Conkling,  
Deputy State Engineer in Charge of Water Rights, Division of  
Water Resources, Department of Public Works, State of California.

O P I N I O N

General Description of Project

Application 10656 was filed by John D. Richards on June 7, 1943. It  
Proposes an appropriation of 0.025 cubic foot per second from seepage water  
tributary to Cajon Canyon to be diverted throughout the year for domestic

purposes within the NW $\frac{1}{4}$  of SW $\frac{1}{4}$  of Section 8, T 3 N, R 6 W, S.B.B.M. The point of diversion is described as being within the NE $\frac{1}{4}$  of SE $\frac{1}{4}$  of Section 7, T 3 N, R 6 W, S.B.B.M.

#### Protest

Application 10656 was protested by Michele and Bettina Gazzera who are selling their property to one Angelo Peroglio. They claim a right to the use of the water which applicant is seeking to appropriate by virtue of an appropriative right initiated prior to December 19, 1914, the effective date of the Water Commission Act. They allege in effect that since they acquired the right from their predecessors in interest in the year 1934 all of the water has been used by them for irrigation and domestic purposes save such water as they have, as a matter of accommodation, allowed the applicant to use and that applicant is endeavoring to obtain water which is rightfully theirs.

#### Field Investigation

Stipulations under Regulation 12B of the Rules and Regulations of the Division of Water Resources having been signed by the applicant and the protestants and approved by this office, an investigation was conducted at the site of the proposed appropriation by an engineer of the Division on August 9, 1944. Accompanying the engineer was J. R. Cavallo, a relative of the protestants and Angelo Peroglio who is purchasing the property of the protestants. Although a notice of the proposed investigation was sent to the applicant, he was absent from home at the time and did not receive the notice until after his return which was too late to be present at the investigation. In arriving at a decision in the matter reliance is placed upon the entire file on Application 10656.

### General Discussion

The results of the investigation indicate that the seepage which applicant proposes to appropriate is derived from Davis Springs which were developed by protestant's predecessor in interest of that name and are located in a gulch above applicant's property. The main spring, which yields a good quality of drinking water, has been excavated to a depth of some 30 feet and is lined with concrete. From this well, water is diverted by gravity to applicant's property by a one inch pipe line which was installed about a year ago. The yield of the well will probably not exceed the 4000 gallons per day estimated by the applicant.

About 40 feet northeasterly on the side of a draw is another well boxed with planks, the waters of which are alkaline and apparently not being used although there were indications that water was pumped from this well at one time. Apparently during the tenancy of Mr. Davis, many years ago, water had been pumped from one or both of these wells to a metal tank on a hill and thence piped to protestants' property but nothing now remains to indicate this diversion and use but the tank.

In a gulch to the southwest of protestants' property is another spring from which water is piped to a housed, concrete reservoir and thence to protestants' property. This water is also slightly alkaline and not suitable for drinking purposes. According to Mr. Cavallo, water had been delivered by gravity to this line from the Davis Springs up to 2 years ago when the section of pipe to the Davis Springs had been stolen. Our investigating engineer, however, was of the opinion that this section of pipe could not have delivered any appreciable quantity of water as the Gazzera house is practically at the same elevation as the curb of the Davis well and it is significant that Mr.

Davis had found it necessary to pump water from Davis Springs to a tank on a hill for delivery to the Gazzera property.

There was no supporting evidence to indicate that any rights which had been established in the past to the use of water conveyed by pipe line from Davis Springs to protestants' property are still valid. Protestants' right to drinking water conveyed by bucket from Davis Springs, however, remains undisputed. The potable well is not fenced and there is a faucet conveniently placed in the Richards pipe line from which buckets may be filled.

With the exception of the more or less negligible quantity of water carried by bucket by the protestants, the yield of Davis Springs appears to be available for appropriation by the applicant and it is the opinion of this office that Application 10656 should be approved subject to the usual terms and conditions.

O R D E R

Application 10656 for a permit to appropriate water having been filed with the Division of Water Resources as above stated, <sup>a protest having been filed,</sup> a field investigation by the Division having been made, a stipulated hearing having been held in accordance with Regulation 12B of the Rules and Regulations of the Division of Water Resources and the Division of Water Resources now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 10656 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 <sup>4</sup> day of *October* 1944.

EDWARD HYATT, State Engineer

By *Harold Conkling*  
Deputy State Engineer

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