

BEFORE THE DIVISION OF WATER RESOURCES

DEPARTMENT OF PUBLIC WORKS

STATE OF CALIFORNIA

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In the Matter of Application 11370 of El Dorado National Forest to Appropriate Water from an Unnamed Spring in El Dorado County, Tributary to South Fork of American River for Domestic and Fire Protection Purposes.

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Decision A. 11370 D. 547

Decided February 28, 1947

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Appearances at Investigation Conducted by the Division of Water Resources at the Site of the Proposed Appropriation on October 10, 1946.

For Applicant

El Dorado National Forest

H. B. Miller

For Protestants

Margaret Faris Eliassen)
George Faris and J. Rohrer)

George Faris and
Roy Hamilton

For Division of Water Resources

S. C. Whipple, Associate Hydraulic Engineer, for Edward Hyatt, State Engineer.

OPINION

GENERAL DESCRIPTION OF PROPOSED DEVELOPMENT

Application 11370 was filed by El Dorado National Forest on April 12, 1946. Applicant proposes an appropriation of 200 gallons per day from an unnamed spring in the bed of a creek which is tributary to the South

Fork of American River. It is proposed to divert the water throughout the year at a point within the SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 2, T. 11 N., R. 17 E., M. D. B. & M. for domestic and fire protection purposes within Lot 6 of Phillips Summer Home Tract within the NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 11, T. 11 N., R. 17 E., M. D. B. & M.

PROTEST

A joint protest against the approval of Application 11370 was filed by Margaret Faris Eliassen, George Faris and J. Rohrer on July 8, 1946. These protestants claim riparian rights to the use of the water of the spring and allege in effect that the flow from the spring which is the only source of water available to them is insufficient during the fall months to meet the present domestic demands. They own approximately 40 acres and intend to construct additional summer homes which will require more water as soon as building conditions permit.

FIELD INVESTIGATION

Stipulations to an informal hearing under Section 733(b) of the Rules and Regulations of the Division of Water Resources having been entered into by both the applicant and the protestants and these stipulations having been approved by the State Engineer, a field investigation was conducted at the site of the proposed appropriation on October 10, 1946, by an engineer of the Division, at which the applicant and protestants were represented.

Records Relied Upon in Arriving at a Decision

In arriving at a decision as to whether Application 11370 should be approved, reliance is placed upon the entire file in connection with Application 11370. Particular reliance is placed upon the report of the engineer who conducted the investigation.

General Discussion

The source of the proposed appropriation is a spring located in the bottom of an unnamed stream which is tributary to the South Fork of American River.

At the time of the investigation on October 10, 1946, the flow of the spring was estimated to be approximately 29,000 gallons per day. At the intake of the protestants, which is located approximately 850 feet downstream from applicants' proposed point of diversion, the flow was estimated to be approximately 43,000 gallons per day, indicating that there were accretions between the spring and the lower intake. This increase may have been the result of rains which occurred a week prior to the investigation and it is possible that during the dry season the flow of the stream at protestants' intake may even be less than the flow of the spring.

In view of the fact that the watershed which ranges in elevation from 7100 to 9000 feet above sea level is rugged and heavily timbered, conditions appear favorable for a well sustained summer flow. According to protestant Paris, however, who has resided in that vicinity for some 20 years, the source of supply fails completely in a dry year. Both applicant and protestants agree that in ordinary years the yield is sharply reduced after the middle of July.

On July 12, 1946, Forest Supervisor Smith examined the area in question and at that time found more than enough water to satisfy the needs of the Forest Service and the protestants. Although admitting that during the late summer and fall the supply diminishes to a great extent, he is of the opinion that if Application 11370 were approved by the Division, it would not affect the amount of water available at protestants' point of

diversion as the entire creek consists of small springs, marshy places and rock ledges and that the small amount of water which the Forest Service would divert at the spring would never reach the protestants' intake if it were allowed to continue to flow. He is of the opinion that by proper development at their intake a continuous supply of water can be secured.

Protestants present use consists of domestic service to two fully plumbed dwellings and the irrigation of about 1/4 acre of garden requiring approximately 2400 gallons per day or less than one-tenth of the estimated flow of the spring at the time of the investigation. They propose to increase the present use by constructing 3 more fully plumbed summer homes which they expect will be occupied within the next two years and to eventually add many more such homes, all of which will be dependent upon the source of the proposed appropriation for their water supply. This in itself would indicate that protestants are of the opinion that water is available in excess of their present needs. If there is sufficient water to justify the proposed expansion by the protestants, there will surely be enough water to justify the approval of an application for the use of water at one summer home requiring but 200 gallons per day.

Riparian use which is prospective only cannot be urged as a basis upon which to deny the approval of an application and until such a time as the protestants have use for additional water and can actually apply it to beneficial use, the law provides that the waters may be appropriated by others.

During a season of normal runoff there appears to be unappropriated water at the spring in sufficient quantities to justify the approval of

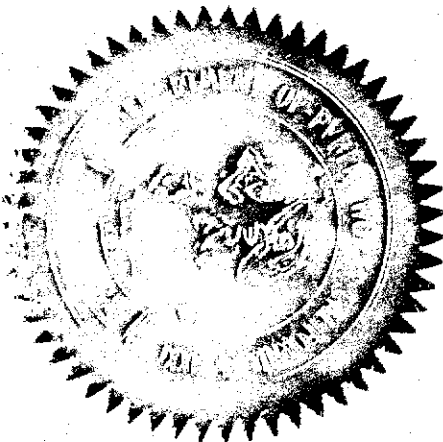
Application 11370 and therefore this application should be approved subject to the usual terms and conditions.

ORDER

Application 11370 for a permit to appropriate water having been filed with the Division of Water Resources as above stated, a protest having been filed, a field investigation having been made, a stipulated hearing having been held in accordance with Section 733(b) 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 11370 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 23th day of February 1947.




Edward Hyatt, State Engineer