

STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC WORKS
BEFORE THE STATE ENGINEER AND
CHIEF OF THE DIVISION OF WATER RESOURCES

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In the Matter of Application 12491 by Gene Cahoon to Appropriate Water from an Unnamed Spring Tributary to Rock Creek in Inyo County for Domestic Purposes.

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Decision A. 12491 D. 656

Decided April 5, 1950

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IN ATTENDANCE AT INVESTIGATION CONDUCTED BY THE DIVISION OF WATER RESOURCES AT THE SITE OF THE PROPOSED APPROPRIATION ON AUGUST 16, 1949:

Gene Cahoon	Applicant
Jess Chance	Protestant
S. S. Skeehan	Assistant Civil Engineer Division of Water Resources Department of Public Works Representing the State Engineer

Protestant Chance's wife and son were also present during the investigation.

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OPINION

General Description of the Project

The project contemplates an appropriation of 200 gallons per day from an unnamed spring situated within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of projected Section 6, T 6 S, R 30 E, M.D.B.&M., in Inyo County, for domestic purposes. The spring is tributary to Rock Creek which in turn discharges into Owens River. The place of use is to be a cabin site designated as

Lot 15, Mammoth Ranger District, Inyo National Forest. The amount applied for is based upon full time occupancy by 8 people. In lieu of a conduit water is to be dipped from the source and hand-carried to the place of use.

Protest

The application was protested by Jess Chance of Bishop, California. Mr. Chance states that he owns a ranch in Round Valley which is irrigated with water from Rock Creek, that there is a runoff from Rock Creek in Spring but no surplus during Summer, and that he has been without sufficient water to irrigate his land nearly every summer from August 1, on. He complains that cabin owners who are granted permits divert from the headwaters while the holders of prior rights downstream get what is left, amounts which he implies are insufficient. Mr. Chance asserts a riparian right and continued use since 1870. He describes his use as irrigation and power generation. He describes his points of diversion as being located near the corner common to Sections 29, 30, 31 and 32 of T 5 S, R 31 E and near the NE corner of Section 5, T 6 S, R 31 E.

The applicant answers the protest by stating that the amount of water applied for is too small to affect the flow of Rock Creek, that practically all of the water diverted under the application would find its way by seepage to Rock Creek, and that the water shortage allegedly occurring in August is due to weather conditions rather than to human consumption.

Field Investigation

The applicant and the protestant having stipulated to an informal hearing as provided for in Section 733(b) of the California

Administrative Code a field investigation was conducted at the site of the proposed appropriation on August 16, 1949 by an Engineer of the Division. The applicant and the protestant were both in attendance at the investigation.

Records Relied Upon

Application 12491 and all data and information on file therewith.

Discussion

Protestant Chance withdrew his protest against Application 12491 by signing and submitting on September 6, 1949 a Division Form 23C letter to that effect.

Under date of November 24, 1948 Mr. Chance addressed a letter to the State Engineer explaining his position in protesting such applications as Mr. Cahoon's. Mr. Chance remarked in his letter that a single application to appropriate from upper Rock Creek does not appear harmful but that the cumulative effect of many small appropriations is definitely injurious to downstream water users. He urged in that connection that a study be made of recent filings before the Division on Rock Creek with a view to a clearer appreciation of the situation which is becoming of acute concern to him. He commented also that the applications filed on Rock Creek are not in all cases for single family use but on the contrary are sometimes filed for speculative purposes and that the approval of such applications is especially objectionable to downstream holders of prior rights. Mr. Chance restated the substance of the letter just mentioned to the engineer conducting the investigation of Application 12491.

Mr. Chance, according to the report of the investigation, is

in the cattle raising business and his use of water is mainly for stock-watering purposes and for the irrigation of 240 acres of pasture. Rock Creek flows through a portion of his ranch which is said to be one of the oldest in the valley. It is approximately 18 miles downstream from the Cahoon project. The investigating engineer determined by measurement at a Parshall flume about 2 miles above the Chance intake that the flow of Rock Creek at the time of the investigation was 10.6 cubic feet per second. By a subsequent examination of the records of the Sherwin Hill Gaging Station (maintained by the City of Los Angeles) it was ascertained that the mean monthly flow at the Parshall flume above mentioned exceeded 5 cubic feet per second in every month of the 3 year period ending October 1, 1949, except during the month of September 1949.

Inasmuch as considerably less than 5 cubic feet per second may be considered sufficient for the irrigation of 240 acres of pasture it was concluded that the over-appropriation of water apprehended by Protestant Chance has not yet occurred. In view of the Sherwin Hill Gaging Station record it is apparent that surpluses ordinarily exist beyond the apparent needs of Protestant Chance, and that such surpluses may be taken and used in the manner and to the extent proposed in the application without injury to that protestant. It is the opinion of this office that Application 12491 should be approved and permit issued, subject to the usual terms and conditions.

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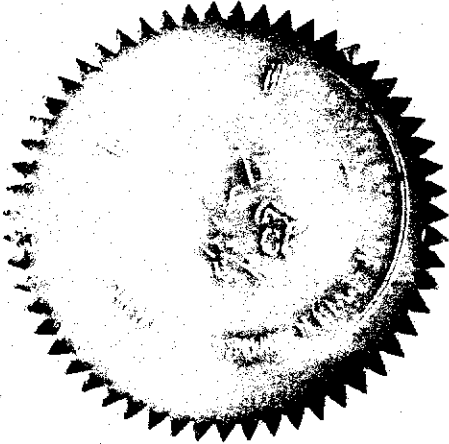
ORDER

Application 12491 for a permit to appropriate water having been filed, a field investigation having been made, a stipulated hearing having been held in accordance with Article 733(b) of the Administrative

Code and the State Engineer now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 12491 be approved and that a permit be issued 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 5th day of April , 1950.



A. D. Edmonston

A. D. Edmonston
State Engineer