

BEFORE THE DIVISION OF WATER RIGHTS

Department of Public Works

State of California

DECISION A 3417 - D 1

IN THE MATTER OF APPLICATION NO. 3417 OF MRS. ADA HARER
FOR A PERMIT TO APPROPRIATE WATER FROM WARM SPRINGS,
IN INYO COUNTY, FOR IRRIGATION AND DOMESTIC PURPOSES.

Decided February 27, 1924.

Appearances at Hearing:-

Mrs. Ada Harer, in propria persona.

Trent G. Anderson, for the City of Los Angeles, Protestant.

Edward Hyatt, Jr., Acting Chief of Division of Water Rights.

O P I N I O N

On May 15, 1923, Mrs. Ada Harer filed Application Number 3417 for a permit to appropriate 1.31 cubic feet per second of the waters of Warm Springs, in Inyo County, said water to be used for domestic purposes and for the irrigation of 105 acres of land. Thereafter the application was duly advertised and a protest against the same was filed by the City of Los Angeles.

The City of Los Angeles, protestant, claims the right, by purchase and appropriation, to all of the waters of Warm Springs. It claims that the right to the use of said waters is appurtenant to the A. O. Collins Ranch, purchased by the City in 1907, upon which ranch said waters have been used for the past 50 years. It also claims that the waters of Warm Springs are tributary to Owens River, and that for the past 15 years the excess waters over and above those required on the Collins Ranch have flowed into Owens River, from which they have been diverted through the Los Angeles Aqueduct and used for domestic and irrigation purposes by the City of Los Angeles and its inhabitants.

The applicant, in her answer to the protest, denies that Warm Springs are tributary to Owens River, and claims that only a small portion of the waters from the springs has been used on the Collins Ranch.

Warm Springs were formerly filed on by Sydney W. Eyles, under Application Number 2035. This application was canceled for failure to complete, and no decision relative to the existence of unappropriated water was made in connection therewith.

A field investigation was made in connection with the Eyles application, by Engineer George M. Hill of the Division of Water Rights, a report of which is filed under Application Number 2035. The following facts were revealed by Hill's investigation:

- (1) Warm Springs consists of a group of springs, the combined flow of which is practically constant at about 1.6 cubic feet per second.

(2) The springs are not directly tributary to Owens River, but flow onto swamp land adjacent to the river. It is probable that they contribute indirectly to the water supply of the river.

(3) About 60 acres of land on the Collins Ranch are both irrigated and sub-irrigated with waters from the springs.

A public hearing on the Ada Harer application was held before Engineer Gordon Zander at Independence on December 13, 1923. Attorney Spencer Burroughs also appeared for the Division of Water Rights at this hearing.

The protestant introduced testimony at the hearing showing that there are two ditches leading from Warm Springs; one extending in a north-westerly direction for a distance of about $1\frac{1}{2}$ miles to the house on the Collins Ranch, with laterals leading onto the meadow land near the house, and one extending in a southwesterly direction onto meadow land in the $W\frac{1}{2}$ SW $\frac{1}{2}$ Section 8 (see protestant's map introduced at the Hearing as Exhibit "A"). According to the testimony of A. O. Collins, the north ditch has been used for domestic, stock watering and irrigation purposes since 1886, and the south ditch was constructed by himself and his brother sometime prior to 1911, since which time it has been used for the purpose of running water out onto meadow land in the $W\frac{1}{2}$ SW $\frac{1}{2}$ Section 8, during the winter, for stock.

Since the City acquired the Collins Ranch in 1907, it has been leased to tenants. The protestant introduced various witnesses to prove that the entire flow of Warm Springs has been used continuously by these

tenants either on the Collins Ranch or on the "Ben H. Yandell Filing", which includes the $W\frac{1}{2}$ $SW\frac{1}{2}$ Section 8 and is now owned by the City of Los Angeles, except during a number of short periods at which times the flow from the springs was interrupted by the acts of unknown parties, and except during certain periods in the winter time when a portion of the water was turned through a waste channel, from which it flowed over low ground, through a meadow, into Owens River. The water reaching Owens River was diverted into the Los Angeles Aqueduct, through which it was conveyed to the City of Los Angeles and used for domestic and irrigation purposes.

The preponderance of evidence shows and it is found that the waters of Warm Springs have been used to some extent by the protestant and its predecessors in interest since 1838, and that since 1907 the entire flow from Warm Springs has been beneficially used continuously, during the irrigating season of each year, with the exceptions above mentioned, by tenants of land owned by the protestant, the use having been for domestic purposes, for watering on an average about 100 head of stock, and for the irrigation and sub-irrigation of between 50 and 60 acres of land.

It is therefore determined that there is no unappropriated flow from Warm Springs available for use under the application.

O R D E R

Mrs. Ada Harer having filed with the Division of Water Rights

of the Department of Public Works of the State of California Application Number 3417 for a permit to appropriate water from Warm Springs, in Inyo County, a public hearing having been held and the Acting Chief of the Division of Water Rights being of the opinion that there is no unappropriated flow from Warm Springs available for use under the application;

IT IS HEREBY ORDERED, that said Application Number 3417 be and the same is hereby denied.

Dated at Sacramento, California, this 27th day of February, 1924.

Acting Chief, Division of Water Rights,
Department of Public Works,
of the State of California.

GZ:E